

NOTICE OF MEETING

A Regular Meeting of the Leelanau County Planning Commission (LCPC) will be held at **5:30 pm Tuesday, MAY 25, 2021** in the Leelanau County Government Center and by zoom.

A live streaming of this meeting will be available for viewing via the following link –
https://www.youtube.com/channel/UCNQTglgcTedF2qB8floC1GQ?view_as=subscriber

If you would like to provide comment during the meeting, please watch the livestreamed video, and call in during one of the two public comment portions on the agenda, to **231-256-8109**. There will be no queue, and calls will be taken in the order they are received. Emailed comments are also welcome prior to the meeting, and can be addressed to:
planning@leelanau.gov

Due to COVID-19, this session will be held virtually via Zoom, AND in the Commissioners Meeting Room, Leelanau County Government Center, Suttons Bay, Michigan.

(Please silence any unnecessary cellular/electronic devices)

DRAFT AGENDA

CALL TO ORDER & PLEDGE OF ALLEGIANCE

ROLL CALL

CONSIDERATION OF AGENDA

CONFLICT OF INTEREST (*refer to Section 3.7 of the Bylaws*)

PUBLIC COMMENT (Call 231-256-8109)

STAFF COMMENTS

CONSIDERATION OF APRIL 27, 2021 MEETING MINUTES *pgs 2-6*

NEW BUSINESS

- A. PC04-21-09 – Conditional Rezoning (Psenka/Snowbird Inn), Leland Township *pgs 7-65*
- B. Discussion on Training session for Fall 2021

REPORTS

1. Education Committee
2. Housing Action Committee (*Lautner*)
3. Parks & Recreation Committee (*Noonan*)
4. Report from LCPC members of attendance at township/village meetings, or Other Meetings/Trainings

COMMUNICATIONS

Notice of Intent to Plan – Long Lake Township *pg 66*

PUBLIC COMMENTS (Call 231-256-8109)

STAFF COMMENTS

COMMISSIONER & CHAIRPERSON COMMENTS

ADJOURN

LCPC Members

Steve Yoder, Chairman
Casey Noonan, Vice-Chairman
Melvin Black, Chair Pro-Tem
Dan Hubbell
Melinda Lautner
Gail Carlson
Robert Miller
Tom Nixon
Kim Todd
Nathan Griswold
Amy Trumbull

A REGULAR MEETING OF THE LEELANAU COUNTY PLANNING COMMISSION WAS HELD ON TUESDAY, APRIL 27, 2021, AT THE LEELANAU COUNTY GOVERNMENT CENTER.

Proceedings of the meeting were recorded and are not the official record of the meeting. The formally approved written copy of the minutes will be the official record of the meeting.

Meeting was called to order at 5:32 p.m. by Chairman Yoder who led the Pledge of Allegiance. The Meeting was held at the Leelanau County Government Center, 8527 E. Government Center Dr., Suttons Bay, MI and via ZOOM.

ROLL CALL

Members Present: R. Miller (Cleveland Twp.), T. Nixon (Suttons Bay Twp.)
(via ZOOM) K. Todd (Leelanau Twp.), N. Griswold (Elmwood Twp.),
C. Noonan (Empire Twp.)

Members Present: S. Yoder, G. Carlson, M. Black, M. Lautner, A. Trumbull
(At Government Center)

Members Absent: D. Hubbell
(prior notice)

Staff Present: G. Myer, Senior Planner
(At Government Center)

Public Present: None
(At Government Center)

Public Present: S. Patmore (Leelanau Twp.)
(via ZOOM)

Yoder updated members on the most recent guidelines sent out by the Michigan Department of Health and Human Services (MDHHS) requiring that all individuals present at board meetings wear a face mask throughout the entire meeting. This does not exclude elected officials, but since they are elected, they may do as they wish. Yoder respectfully requested that all members present wear a mask throughout the entire meeting if possible.

CONSIDERATION OF AGENDA

Motion by Lautner, seconded by Noonan, to accept the agenda as presented. Motion carried 10-0.

CONFLICT OF INTEREST – None.

PUBLIC COMMENT

The phone number for public comment was announced.

No comments received.

STAFF COMMENTS

Myer mentioned the CIP and stated that since there were no new items to add this year, some minor updating was needed and it would be ready for review next month.

CONSIDERATION OF MARCH 23, 2021 MEETING MINUTES

Griswold requested changes be made to his comments on page 6, under “Commissioner & Chairperson Comments.” He would like his comments to read as follows:

“He believes STR’s are a good thing for this county and that they can provide a much-needed income stream into our community. He would like to see a resolution in support of incentive-based and creative zoning. Griswold offered to assist with setting up this training.”

Motion by Trumbull, seconded by Black, to accept the minutes as amended. Motion carried 10-0.

NEW BUSINESS

PC03-21-08 Leelanau Township - Signs.

S. Patmore stated they currently have a stand-alone Sign Ordinance which doesn’t meet the content neutral requirements and has not been updated since 1991. Leelanau Township has been working on this amendment for at least two years, and they want to make it a part of their Zoning Ordinance instead of a Police Power Ordinance. Patmore said they started by looking at the Leelanau County model sign ordinance, and Bingham and Elmwood Townships standards. A member of the Leelanau Township Planning Commission toured the township, making a list of all of the business signs and the sizes, which was used in their decision-making process. They have also been monitoring the size and number of political signs. Dark sky standards were incorporated into the new language. Patmore continued, saying the Planning Commission didn’t feel that the township had a current sign problem, they just wanted to upgrade in order to meet the Supreme Court decision and make things workable for the community. Patmore pointed out that these sign standards do not apply to the Village of Northport.

Patmore continued, saying they had a Public Hearing in January of 2020, which continued into February and March because commissioners kept thinking of things. They had very little public comment, and the commissioners feel that the County Planning Commission would be a good set of eyes to review this. Patmore said the township realizes that this needs a little more work, and they would like to get more public input. He mentioned the upcoming sign training and stated they would attend that. Patmore concluded by saying they will probably have another public hearing on this.

Myer reviewed the staff report, saying the request to review the text was received on March 23, 2021 and the request to review the memo and township planning commission minutes was received on April 22, 2021. Following a Public Hearing on January 23, 2020, which was continued on February 13, 2020 and continued on March 12, 2020, the township planning commission passed a motion to forward the amendment to the County Planning Commission for its review and comments.

Myer continued, saying Leelanau Township is proposing adding Sign regulations to its township zoning ordinance, and rescinding the Sign Ordinance 91-1 (Amended through June 15, 1996). Ordinance 91-01 is known as a ‘police power ordinance or just called ‘an ordinance’. Zoning and police power ordinances are not the same. A zoning ordinance must be based on a master plan. Police power ordinances do not have such a requirement. A police power ordinance does not regulate the ‘use

of land', it regulates an 'activity'. A zoning ordinance regulates 'use of land' and it might also regulate an 'activity'. There is a difference in the process to adopt a police power ordinance vs a zoning ordinance.

Myer continued, saying the proposed amendment will Add Article 22 – Signs to the Leelanau Township Zoning Ordinance and rescind existing Leelanau Township Sign Ordinance 91-01. The process to repeal the ordinance had to follow the same process to adopt it. If Leelanau Township wishes to rescind/repeal its Sign Ordinance 91-01, they should verify the process to complete this step. Myer said the proposed Leelanau Township Sign regulations are quite similar to the regulations proposed by the Sign Advisory Group (SAG) in 2016. The township has added regulations on Illumination of signs, and Non-conforming Signs.

Myer pointed out the following typo: Section 22.5(B) reads “Maximum size of eight (12) square feet with a maximum height of four (4) feet.” Is the maximum size eight (8) or twelve (12) square feet?

Myer continued, saying the township is commended for proposing changes to their sign regulations in order to be in compliance with content neutral regulations. Prior to adopting Sign Regulations as part of the township zoning ordinance, township officials may wish to sign up for the 'Michigan Sign Regulation Guidebook Training' to be held on May 12. Recent court decisions further reduce local zoning authority (potentially) to limit on and off premise signs, commercial and non-commercial speech. And, the advancement of digital sign technology presents new challenges. It may be beneficial for township officials to participate in this training, prior to taking any final action on Sign regulations.

Myer said with regard to Public Hearings, it is important to make sure proper procedure is followed. Staff did not have the minutes from the January or February township planning commission minutes prior this staff report being completed. It is staff's understanding that a Public Hearing can be recessed if the time and place is announced during the initial meeting. If the January Public Hearing was recessed to February and then to March, this step would need to occur at each subsequent Public Hearing. If not, the required notices may be required again for the next hearing. Also, Public Hearings should be noted in the minutes as 'Opened, Closed' and then action/motion is recorded. The minutes from the March meeting show the Public Hearing opened and a motion passed, but does not show the Public Hearing being closed. The motion should occur after the Public Hearing is closed. Myer concluded by saying if there are any questions regarding proper procedure being followed, the township may wish to check with their legal counsel on this issue, prior to the Township Board taking final action.

Lautner asked for clarification regarding the error pointed out in the staff report in Section 22.5(B). Patmore stated he would have to check into that.

Miller said the definition of a mural says it does not contain written text or convey a commercial message. What if you have a picture of sleeping bears and it said “Sleeping Bear”, is that a sign or a mural? Patmore said it depends on if “sleeping bear” is a business. This is geared more towards quotes on a barn. They didn't want them to be construed as a sign. Patmore continued, saying that if “Sleeping Bear” is the business that is there, then yes, that would be conveying a message. If “Sleeping Bear” is unrelated to the property then it would be considered a mural. Miller stated, then what you consider a written sentence, is prohibited as a mural is defined. Patmore said their intent is not to regulate art.

Miller continued, asking if a flag has words on it, is it a sign? Patmore said no, the planning commission spent a lot of time on flags. They don't have a problem with them, so they are exempt.

Miller stated that a bedsheet hung up could be called a flag and say whatever on it and it could be considered a commercial sign. Patmore said that if you have to read the flag to figure out what kind of sign it is, then it's not content neutral. The planning commission made the decision that they didn't even want to try and regulate flags. Miller said that it is open for abuse in his opinion. Patmore agreed, someday someone will abuse that, but they didn't want to regulate flags.

Miller continued, saying 22.5.A Table says it's measured from the ground. If the bottom of a sign is two foot above grade, then a six-foot sign is maximum? Patmore stated a note was added which reads "The height of a sign is measure from the un-altered grade." Miller said, then if the grass is two foot high, you need to have the sign two foot above grade in order for people to see it. This would mean an eight-foot-high permitted sign would only be a visible six-foot sign. Patmore said the measurement is from grade, not grass. They are assuming that if a person wants their sign to be seen, they would be responsible for mowing the grass.

Nixon stated that the language was pretty clear and that he was impressed by the person running around the township taking note of all of the signs. He also pointed out on the first page of the proposed amendment, there are quotation marks at the beginning of the paragraph that are not needed and on page two, "Changeable Copy Sign" is in italics and shouldn't be.

Todd commended the township for incorporating dark sky provisions.

Griswold said more and more, flags are being used for political purposes and he knows political signs are temporary. A flag, if exempt, could be a political sign flown year-round. Patmore stated they had a lot of discussion on freedom of speech and flags.

Yoder said the draft was very well done and he concurs with staff regarding the public hearing process.

Motion by Lautner, seconded by Black, to forward staff report, minutes and all comments to Leelanau Township Planning Commission. Motion carried 10-0.

Training Topics for fall session/Referral to Education Committee

Yoder said they would like to do a fall training session for local townships and municipalities. Some possible topics were included in the agenda packet and he would like everyone's top two choices.

Black – short term rentals and solar.

Lautner – farm markets, Generally Accepted Agricultural and Management Practices (GAAMPs), how to fit value added businesses into your community and crime prevention through environmental design. Then at some point, marijuana – the after affects, two years in.

Carlson – middle housing and solar.

Miller – GAAMPs, solar and alternative energy.

Nixon – noise ordinances, and GAAMPs.

Todd – solar and GAAMPs.

Griswold – short term rentals or alternative housing options, creative zoning and alternative energy.

Trumbull – middle housing and solar.

Noonan – signs and GAAMPs.

Yoder – middle housing, solar and alternative energy.

Yoder concluded by saying the top two choices for the Education Committee to look into are GAAMPs and solar.

REPORTS

Education Committee

Nothing to report.

Housing Action Committee

Nothing to report.

Parks & Recreation Committee

Noonan said they are working on trail clean up at Myles Kimmerly Park. They have been experiencing larger than expected numbers there. They have also been approached by Glen Lake School about leasing a new field at the park. Veronica Valley kids fishing day is coming up on June 27th.

Reports from LCPC members of attendance at township/village meetings, or other meetings/trainings.

Trumbull mentioned she is currently taking the Citizens Planner course online and is learning a lot.

COMMUNICATIONS

Webinar: Housing Ready Program (information included in packet)

PUBLIC COMMENT

The phone number for public comment was announced.

No public comments received.

STAFF COMMENTS – None.

COMMISSIONER & CHAIRPERSON COMMENTS

Black stated he has driven all over the county and he commends what he sees, If he needs to find something, the signage is there. It is very hard to find anything in Florida.

Yoder thanked staff and wished everyone a good spring!

ADJOURN

Meeting adjourned at 6:24 p.m.

REZONING REQUEST

PC04-21-09 Leland Township

Conditional Rezoning Request (Snowbird Inn)

GENERAL INFORMATION:

Reviewing Entity: Leelanau County Planning Commission
Date of Review: May 25, 2021
Date Request Received: May 12, 2021
Last Day of Review Period: June 11, 2021 (30-day review period under the Michigan Zoning Enabling Act)
Requested Action: Review and comment on a conditional rezoning request in Leland Township for approximately 18.4 acres.

Applicant: Joseph Psenka
473 N. Manitou Tr.
Lake Leelanau MI 49653

Owner: Joseph A. Psenka Jr.

General Location:

The subject parcel, property tax number 45-009-021-026-00, is located in Leland Township and situated on M-22, just north of N. Birch Landing Dr. and directly south of N. Birdsong Rd. and is located in the Agricultural Residential (A/R) Low Density Zoning District. The subject parcel is approximately 18.4 acres in size and located in Section 21, Town 30 North, Range 12 West.

A copy of the application is included in the Appendix, as well as a copy of the application for site plan review.

NOTE: The county planning commission does not review site plan review applications as part of its responsibility under the Michigan Zoning Enabling Act. The township submitted it, and it is included for reference purposes. The county has conducted informal reviews of site plans in the past, when requested by a local municipality.

Existing Land Use: The parcel currently has a bed and breakfast (Snowbird Inn) along with approximately 7.5 acres of apple orchard, a barn and a couple of out-buildings. Land use includes shrubland and orchards.

Adjacent Land Use and Zoning¹

NORTH	Land Use: Duck Lake, single family residential, upland conifers Zoning: A/R Low Density Agricultural - Residential
SOUTH	Land Use: Single family residential, shrubland, Good Harbor Vineyards Zoning: A/R Low Density Agricultural – Residential
EAST	Land Use: Single family residential, shrubland Zoning: A/R Low Density Agricultural – Residential
WEST	Land Use: Single family residential, broadleaved forest Zoning: Medium Density Lakeshore Residential

ZONING HISTORY

Good Harbor Vineyards, located south of the subject parcel and on the east side of M-22, opened in 1980. It sells wine and hard ciders.

¹ 2017 Spring Aerials, 2000 Land Use Data, and Leland Township Maps.

In 2013, the county planning commission reviewed Staff Report PC07-13-09, text amendments to the Leland Township Zoning Ordinance. One of the proposed amendments modified Section 18.25 Wineries. The prior Section 18.25 allowed wineries as a Use Permitted by Right in the Agricultural Conservation (A/C) District and the Agricultural Residential (A/R) District with a minimum lot area of ten (10) acres required. The 2013 amendment removed wineries from the A/R District with site plan review required (and a Special Land Use approval if the total land area of buildings and structures used for wine processing, storage, etc. exceeds 30,000 square feet). The applicant's property is located in the A/R District.

Below are excerpts from Leland Township Planning Commission minutes, concerning the subject parcel owned by Mr. Joe Psenka:

(Staff note: 'Cypher' refers to Tim Cypher, zoning administrator for Leland Township 'McElyea' refers to Kevin McElyea who served for a time as zoning administrator. Tim Cypher is the current zoning administrator.)

10/3/2018

Business

JOE PSENKA – CIDERIES – POSSIBLE UPDATE – Cypher stated that Mr. Psenka (the owner of the Snowbird Inn) had contacted him regarding options for a cidery on his property. Previous iterations of the Zoning Ordinance would have allowed a cidery in the Agriculture/Residential zoning district, and the Psenkas had planned in that direction, but this allowance was left out of the latest version of the ZO. Cypher has not been able to discover exactly why this was changed or left out. The PC discussed this issue. Options include changing the ZO to allow cideries in this district, allowing cideries through conditional rezoning, or rezoning the area to Agriculture, rather than A/R.

Mr. Psenka spoke and gave the history of his property. He began planting cider apples when the ZO allowed cideries in the A/R district, and was told at that point that what he wanted to do was allowed. When he contacted Cypher this spring, he was surprised to discover that this was no longer allowed. He feels he meets the intent of the ordinance, and would like to know what he can do to move his project forward. The PC and Cypher extensively discussed how this can be done given the potential options. The PC is interested in pursuing this; they then discussed whether the PC should pursue this of their own volition or whether Mr. Psenka should submit an application for a ZO amendment, which would force the issue to be discussed and moved through the whole process. The PC extensively discussed the nuances of this issue and the timelines and feasibility of various processes. There are a number of other considerations and agencies involved with starting a cidery. The PC determined that they would ask the Psenkas to put in a request for a zoning ordinance amendment that would allow cideries as a special use in the A/R district. At that point, they would discuss it, and potentially plan to hold a public hearing at an upcoming meeting. Cypher will work with Mr. Psenka to further this process.

11/14/2018

Business

JOE PSENKA – CIDERIES – POSSIBLE UPDATE

Cypher has opined, after further review of the Zoning Ordinance, that cideries and wineries are allowed in both the AR and AC districts by the Zoning Ordinance. There is lack of clarity in the Zoning Ordinance on the topic, however, and he summarized his thoughts on the subject. Sullivan distributed a memorandum that offered three possible actions for this – accept the decision of the ZA, appeal the decision to the ZBA, or allow the cidery currently proposed while working to amend the ZO to clarify the matter. The PC extensively discussed the issue and the options. Attorney Parker stated that the ordinance is ambiguous on this topic and should be amended for clarification. Sullivan and Parker both feel the ZO could be read multiple ways, and that even if this application does not stretch the ordinance, it could lead to the ordinance being stretched in the future. Parker also opined that the opinion, provided by Cypher, did not constitute a formal administrative decision, and so there was still room to work on the topic. There has also been no formal application for a cidery by Psenka. A formal decision would be considered rendered when there was an application submitted and the ZA either approved or denied the application. The PC had consensus that the Zoning Ordinance should be clarified on this topic. The PC would like to see the Psenkas apply for a ZO amendment, to speed the process along, as the PC will not be reviewing the ZO on their own until after the Master Plan review. The plan will be that if the Psenkas submit an amendment application by the December meeting, it can be discussed at that meeting and have the potential for a public hearing on the

amendment at the January meeting. Cypher will work with the Psenkas to bring forward that amendment application.

12/5/2018

Business

JOE PSENKA – CIDERIES – POSSIBLE UPDATE

No documentation or application for amendment of the Zoning Ordinance has been received from Mr. Psenka. Cypher is still working with him to pursue this matter, and Mr. Psenka has told him that he does intend to pursue the avenue of applying for an amendment of the Zoning Ordinance.

2/6/2019

JOE PSENKA –

CIDERIES – POSSIBLE UPDATE

No documentation or application for amendment of the Zoning Ordinance has been received from Mr. Psenka. Cypher is still working with him to pursue this matter, and Mr. Psenka has told him that he does intend to pursue the avenue of applying for an amendment of the Zoning Ordinance. He may request to use an escrow account to allow the use of the expertise of the Zoning Administrator and Township Planner on this matter.

3/6/2019

Business

JOE PSENKA – CIDERIES – POSSIBLE AMENDMENT

An application and other documentation has been received from Mr. Psenka regarding a zoning ordinance amendment. Mr. Psenka was not able to be at the meeting tonight. Cypher summarized the previous discussions on this matter, which involves rezoning to allow a cidery on Mr. Psenka's property. Mr. Psenka has agreed to an escrow account to pay for township staff time to put together specific language for the amendment. It is up to the PC to set the amount for the escrow account. The PC and staff discussed the application and the escrow account. The PC is unsure if Mr. Psenka is asking for a conditional rezoning of his property and/or surrounding properties, or an addition to the allowed special uses in the existing district. ***Stimson moved to accept the application for zoning ordinance amendment and set an escrow account in the amount of \$1,500. Simpson seconded. All in favor, motion carried.***

4/3/2019

Business

JOE PSENKA – CIDERIES – POSSIBLE AMENDMENT

A packet was distributed by Mr. Psenka regarding the history of his property. The use of his property for a cidery was allowed by the Zoning Ordinance when he first began planting apple trees, but this language was changed in the intervening years. Sullivan summarized three potential methods for allowing a cidery on this property – two of which would involve text amendments to the Zoning Ordinance (either as a use-by-right or a special use in the AR district), and one of which would be a conditional rezoning of the property. The PC extensively discussed these options. The PC discussed whether it was needed to go through one of these processes, as when Mr. Psenka started this project he was working under a zoning ordinance that allowed cideries in the AR district. There is no real opposition among the PC members to this project, but they want to do everything in a legal manner. If Mr. Psenka had a written agreement from a prior Zoning Administrator from the start of the project, accepting the proposed use, McElyea believes the cidery could be established as a legal non-conforming use and the project could move forward from there. Mr. Psenka will try to find written documentation of this acceptance. The PC continued the discussion of this project and the best way to move forward. Mr. Psenka summarized his plans for the property, which include a cidery and tasting room. He does not plan to hold events on the property. The apple varieties that he planted are all cider-specific varieties. The PC discussed how to move forward if Mr. Psenka is not able to find an acceptance letter. The PC is interested in moving forward with either allowing cideries as a special use in the AR district or allowing a conditional rezoning of the property. The members discussed which of these options to proceed with, if necessary. The PC had consensus that Mr. Psenka will either provide the acceptance letter or an application to amend the ZO to allow cideries as a special use in the AR district. If Mr. Psenka is able to provide the acceptance letter, McElyea will initiate a discussion with the township attorney to see if he is in agreement that the provided documentation is enough to demonstrate that the cidery is a legal non-conforming use.

5/1/2019

Zoning Administrator Comment:

Regarding the Psenka matter, Mr. Psenka submitted some documentation, but McElyea feels that they did not provide clear evidence that he was approved for the use of a cidery. McElyea is still working with Mr. Psenka on the matter.

9/11/2019

PSENKA PROPERTY

Mr. McElyea asked the PC to set an escrow account for a potential conditional rezoning of the Psenka property. Mr. Psenka has submitted his payment for this process, but has not yet submitted all documentation. The escrow account would be for the services for Mr. Sullivan and potential legal fees. Mr. Sullivan stated that he feels his services would not cost more than \$1,500, and it may be substantially less. The PC and staff discussed the process of conditional rezoning – the applicant (after working with his consultant and Sullivan) will present an application with conditions, which the PC can review and recommend to the Township Board for approval. *Mr. Stimson moved to set the escrow account for the Psenka property at \$1,500. Mr. Simpson seconded. All in favor, motion carried.* Sullivan will work with the Psenkas' and their consultant and review the discussion with the board in October.

At the February 2021 township planning commission meeting, Mr. Chris Grobbel presented the application on behalf of the property owner, Mr. Psenka. Minutes from the meeting, and the subsequent public hearing, are included in the appendix.

SIGNIFICANT ELEMENTS OF THE COMPREHENSIVE PLAN:

Leland Township Plan

The **Future Land Use Map** of the Leland Township Master Plan (2008), calls for **Rural Residential** for the subject parcel.

The **Leland Township Zoning Map**, last updated April 8, 2013 according to the online map, shows A/R Low Density Agricultural-Res zoning for the subject parcel.

Leelanau General Plan

The Leelanau General Plan (Amended 2019) **Future Land Use Map**, Map 5-2a, and Future Land Use Map Natural Features, Map 5-2b, do not specifically identify the subject parcel.

Relevant Sections of the Zoning Ordinance:

Current and Proposed Zoning District – Link to the Township Zoning Ordinance at:

<https://www.leelanau.cc/lelandtwpord.asp>

OTHER AGENCY INPUT

Township Planning Commission:

A public hearing was held on April 7, 2021 and several members of the public voiced concerns. Following the public hearing, the township planning commission reviewed the Findings of Fact, and then passed the following motion at its regular meeting.

“Satterwhite moves to approve the Psenka’s conditional rezoning application based on the conditions set forth in the applicant’s presentation, which includes in perpetuity, required permits and documentation, and hours of operation. Mitchell seconded. Roll call vote: Telgard-yes; Mitchell-yes; Korson-yes, because it was in works before the property was rezoned, otherwise he would have voted no; and Satterwhite-yes. All present in favor, motion carried.”

STAFF ANALYSIS AND FINDINGS

Would rezoning be consistent with other zones and land uses in the area?

See Staff Comments

Would rezoning be consistent with development in the area:

See Staff Comments

Will the proposed use be consistent with both the policies and uses proposed for the area in the Township Plan?

See Staff Comments

Are uses in the existing zone reasonable?

Yes

Do current regulations leave the applicant without economically beneficial or productive options?

No

STAFF COMMENTS

Rezone (rezoning) is defined by Merriam-Webster as “to change the zoning of (an area): to designate (a zone or zones of a city, town, or borough) for a new purpose or use through a change in the applicable zoning regulations. Collins English Dictionary defines rezoning as “to reclassify (a property, neighborhood, etc.) as belong to a different zone or being subject to different zoning restrictions. An act or instance of rezoning; reclassification.

The following excerpt is from Michigan Zoning Enabling Act (MZEA), Act 110 of 2006:

125.3405 Use and development of land as condition to rezoning.

Sec. 405. (1) An owner of land may voluntarily offer in writing, and the local unit of government may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map. (Emphasis added)

(2) In approving the conditions under subsection (1), the local unit of government may establish a time period during which the conditions apply to the land. Except for an extension under subsection (4), if the conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification.

(3) The local government shall not add to or alter the conditions approved under subsection (1) during the time period specified under subsection (2) of this section.

(4) The time period specified under subsection (2) may be extended upon the application of the landowner and approval of the local unit of government.

(5) A local unit of government shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under subsection (1) shall not otherwise affect a landowner's rights under this act, the ordinances of the local unit of government, or any other laws of this state.

History: 2006, Act 110, Eff. July 1, 2006

In Michigan, it is legal to have "conditional zoning" (MCL 125.3405) where the owner of the land voluntarily offers, in writing, conditions to the rezoning of the land or an amendment to a zoning map. Conditions must be proposed by the applicant (not the local unit of government). Section 125.3405 also states that the local unit of government may establish a time period during which the conditions apply to the land.

On February 3, 2021, Mr. Grobbel presented Mr. Psenka’s request to the Leland Township Planning Commission. Mr. Grobbel stated the applicants original application was for a cidery and that he was advised to re-apply for a condition of rezoning. On March 3, 2021, Mr. Grobbel presented Mr. Psenka’s request again, addressing issues of concern that were raised at the February 3, 2021 meeting. A public hearing was set for April 7, 2021. The township planning commission recommended approval following the public hearing. (See Other Agency Input above, or the attached April 7 Public Hearing minutes for the actual motion).

NOTE: This is an unusual request that staff has received and is somewhat similar to a conditional rezoning in another township in Leelanau County a few years ago where the property was not being rezoned to a new district. As part of the preparation for completing this staff report, staff reached out to Corporate Counsel, as well as two planners in the state. Input and suggestions received were in agreement with staff's assessment of the request and were taken into consideration in the writing of this staff report. There are several issues with the proposed application:

- The application is incomplete. The application from Mr. Psenka does not list the current zoning district OR the proposed zoning district.
- The Notice for the Public Hearing did not state what district the parcel is being requested to be **rezoned to**. The notice stated: "Joseph Psenka, d/b/a/ The Snowbird Inn, respectfully requests a conditional rezoning of his property to allow for a Cidery, in conformance with Zoning Ordinance Article 18.25. The property is located in the AR: Low Density Agricultural – Residential District."

A conditional rezoning proposes changing the zoning district to a new district, and the applicant offers conditions. The township can not offer or suggest conditions, and the township is not required to accept the conditions that have been offered as part of the application. The request for conditional rezoning has to be for a rezoning to a new district.

- The applicant has not requested rezoning the property to a new district, thus there is no 'conditional rezoning'. With a conditional rezoning, an applicant submits a request to rezone (for instance from the Agricultural District to the Residential District), proposes a use/development in the (new) Residential District and can voluntarily offer 'conditions' as part of the approval to rezone. If the Township accepts the conditions for rezoning, an Agreement is executed, and recorded at the Register of Deeds office for the county. While there may be concerns that conditional rezoning is 'spot zoning', the use is limited to what has been requested by the applicant and the conditions offered and accepted which are then set forth in a recorded agreement between the parties.
- Mr. Psenka's application is asking for approval of a use which is allowed in the A/C district, but is not permitted in the current A/R district. This request would actually be considered a 'use variance' or 'creation of a special use that is **prohibited** in the current A/R district'. (Winery/cidery is no longer permitted in the A/R district as this use was removed in 2013 by text amendment). Staff recommends the township not consider a use variance, and not consider the creation of a special use that is prohibited in the A/R district. If the township does, property owners in the township could basically ask for any type of use to be allowed in their existing district (without rezoning) and call it conditional rezoning. This would set a precedent for future requests.
- There is no reason to request that the use be 'in perpetuity' as stated in the application. Since zoning runs with the land, if the conditional rezoning is approved and the applicant meets the timelines established by the township, the use can continue. The township has the ability under the MZEA to set the timeframe for any conditions, such as a requirement that the new use must be established within 1 year of the approval of the conditional rezoning, or from the date of the recorded agreement. If the township desires to have permits (as an example – to confirm that sanitary conditions are being met), they can do this under a Licensing Ordinance with a requirement to renew annually, every other year, or some other time frame. If the applicant meets the requirements for site plan review, and obtains approval, it is presumed that as long as they continue to follow the ordinance requirements, they can continue the use. If they don't follow the ordinance, then the township would proceed with violations under the terms of the zoning ordinance.
- The township has no language in its zoning ordinance to allow/prohibit conditional rezoning. While it is not a requirement of the MZEA that such language be included in a zoning ordinance, it is strongly recommended that language be added to the zoning ordinance to spell out due process, procedure, and other such details for conditional rezoning. The Michigan Townships Association (MTA) has developed model

language. Leelanau County also established model language some years ago and sent it to all municipalities in the county for consideration. A community also has the option to specify in their zoning ordinance that conditional rezoning will NOT be allowed. It should also be noted that an offer of conditional rezoning does not require approval by the Township.

- There is very little litigation on conditional rezonings, and no central depository for approved conditional rezonings. Changing the uses in a district is a text amendment and should be handled in that manner. However, if the township does not want to add this use to the entire A/R district, then conditional rezoning is a method that can be considered on an individual parcel basis – but it needs to be done correctly. That means rezoning it **TO** the A/C district and considering the offered conditions. If it is not done properly, the township could be exposed to legal liability and then there is time and money spent to resolve it and you may end up back at square one.
- Page 8 of the site plan review submitted states at the bottom “Applicant offers to allow the property conditional rezoning to revert to A/R upon the cessation or abandonment of the cidery/winery and associated uses”. This is not a condition that can be considered as an offered condition. The applicant is not changing the zoning so there is no ‘reversion’ to the A/R district. Zoning changes are an act of the local governing body and those types of actions can not be offered as conditions. In addition, **Zoning Agreements, LSL Planning, Inc.** states the following:

“Under Michigan’s new act, the meaning of reversion is unclear. For example, if the legislation stated that the zoning would “automatically” revert to the previous classification, it could have been interpreted that no formal action, such as public hearings or notices, would be necessary.

However, the language is not that clear. Courts in other areas of the country have found that a reversion actually constitutes a second rezoning. While it may require subsequent interpretation, our recommendation is that a formal rezoning process be followed.” (*The Zoning Agreements document from LSL Planning, inc. is on file at the Planning office and available upon request*)

Staff suggests the following options for the Township to consider:

1. Request the applicant resubmit a fully completed application for conditional rezoning, stating the current district and the A/C district as the intended new district. Publish a new Notice of Public Hearing which includes the A/C district being the intended new district for conditional rezoning. Hold a Public Hearing and review the completed conditional rezoning request to the A/C district, and any offered conditions.
2. Amend the zoning ordinance to include a process for conditional rezoning, or state that conditional rezoning is not permitted.
3. Amend the ordinance to allow for the requested Winery/Cidery use in the A/R district. This option would open up the use to any properties in the A/R district that could meet the requirements.

The Township should work with its Attorney and seek input on this proposed conditional rezoning and proper procedures. The minutes from the April 7, 2021 Public Hearing (page 6) state:

“Cypher read into the record the following email from legal counsel, Robert Parker, on Friday March 5, 2020, to Tim Cypher, ZA about addressing the issue of running the applications side by side: ‘The question you have raised is whether the Township may or should conduct site plan review of the proposed activities at the same time that it considers the conditional rezoning of the applicant’s property from Low Density Agricultural Residential to Agricultural Conservation’.”

This is the only place in all of the documents received from the township where staff found reference to rezoning the property from A/R to the A/C district. It may be that it was presumed that action would take place but the

Notice for the Public Hearing does not state the A/C district as the intended new district and the application for rezoning leaves the current zoning district and proposed zoning district blank. The township has acted correctly by not taking any action on the site plan review at this time (see page 6 of the April 7 minutes for the township attorney's input). The zoning history for this property shows there was interest in this use back in 2018; a little more time spent to properly post the notices to conditional rezoning and make sure all procedural steps are done correctly will be worth it.

If the township decides to add a conditional rezoning procedure to its zoning ordinance, the township Attorney would draft any Agreements between the Township and a developer with regard to an approved conditional rezoning. (Staff has a sample agreement from another community and there are samples that can be found online.)

Offered conditions must be related to the rezoning itself. For instance, if this was a housing development and there were concerns about the size of dwelling units allowed in the new district, and the applicant offered restricting the size of homes to be consistent with those in the area – it would be related to the rezoning. Inappropriate offers would be an offer for a cash payment to improve the township park facilities, a clause that prohibits the community from ever changing the zoning, or a reduction in required parking spaces. The community can not bargain away its zoning authority, or commit a future body to a certain zoning. An offer that the property would 'revert' to its former zoning is not actually an offer since reversion is already covered in the MZEA, and the township has zoning authority.

The zoning history listed above shows the March 6, 2019 township planning commission meeting motion where an escrow account in the amount of \$1,500 was to be established for a possible amendment or conditional rezoning. The September 11, 2019 minutes show a motion by the township planning commission to set the escrow account at \$1,500 for conditional rezoning. It is not clear if the amount was paid both times, or not.

The Township's Master Plan posted online is dated from 2008. Has the township done a review in the past 5 years? If it was reviewed and determined it did not need an update, it would be important to post that information with the Master Plan. The Planning Act requires a **review** be done every 5 years.

Pages 166-209 of the Leland Township Zoning Ordinance posted online, include all the CUMULATIVE AMENDMENTS TO THE LELAND TOWNSHIP ZONING ORDINANCE EFFECTIVE AUGUST 17, 1996 AS PRINTED AND BOUND, Amendments 1996-01 through 2016-02 October 2016. This is important historical information. However, it adds 43 pages to the zoning ordinance and might be more useful, and less confusing to the reader, if it were a separate document to track the history of all zoning changes.

Finally, staff reminds the Township that the County's review is a 3rd party advisory review which allows the Township to acquire an un-biased review of proposed amendments and rezoning requests, along with comments/suggestions, before the Township Board takes final action. The information in this staff report is intended to assist the Township in making a well-informed decision. The township planning commission will review the request, along with the staff report. Minutes from the county planning commission meeting of Tuesday, May 25 will also be sent to the township, once they are available.

Show search results for 009...



Gov. Lot 1

009-020-003-30

009-020-006-00

009-020-009-00

Gov. Lot 2

009-020-008-00

009-020-007-00

009-020-007-10

009-020-007-20

009-020-012-00

009-020-014-00

009-020-013-00

009-020-015-00

009-020-016-00

Gov. Lot 3

009-021-024-00

009-021-024-40

009-021-024-30

009-021-027-25

009-021-027-35

SUBJECT PROPERTY

009-021-026-00

009-021-025-00

009-021-027-50

N BIRCH LANDING DR

N MANTOU TRL

N BIFDSONG RD

N MANTOU TRL

N MANTOU TRL

44.987 -85.771 Degrees

300ft

Appendix – Submittal from Leland Township

Trudy Galla

From: Tim <tim@allpermits.com>
Sent: Tuesday, May 11, 2021 6:22 PM
To: Trudy Galla
Subject: Re: Next County Planning Commission meeting
Attachments: Psenka - Leland Township Application - Ver 3 (12-14-20).pdf; Psenka app (12-14-20).pdf; Psenka Site Plan 12-14-20.pdf; leland_planning_commission_minutes_02_03_21_1.pdf; leland_planning_commission_minutes_03_03_21.pdf; pc_legal_notice_psenka_04072021-1.pdf; leland_planning_commission_minutes_04_07_21.pdf; PSENKA AMENDMENT FINDINGS W.S. 04072021.pdf; Psenka Conditions (4-2-21).pdf

Trudy,
Please find attached a conditional rezoning request from Leland Township. The April minutes were just approved last Wednesday so we are forwarding it onto you for the Leelanau PC's review and comments.

Let me know if you have any questions.

Thanks,

Tim

Timothy A Cypher
Cypher Group Inc.
Centerville, Empire, Kasson, Glen Arbor, Leland & Solon Zoning/Planning Office
231-360-2557
tim@allpermits.com

From: Trudy Galla <tgalla@leelanau.gov>
Date: Tuesday, May 11, 2021 at 4:41 PM
To: Trudy Galla <tgalla@leelanau.gov>
Subject: Next County Planning Commission meeting

The County Planning Commission is scheduled to meet on Tuesday, May 25 at 5:30 pm at the Government Center.

If you have any items for review by the county planning commission, please submit to our office as soon as possible so they can be included on this meeting agenda.

Thank you.

Trudy J. Galla, AICP, Leelanau County Planning Director
8527 E. Government Center Dr., Suite 108
Suttons Bay MI 49682
231-256-9812
tgalla@leelanau.gov

Leelanau Enterprise

Attention: Legals@leelanaunews.com

Please publish the following legal notice in the March 11, 2021, edition of the *Leelanau Enterprise*. If there are questions, please contact Tim Cypher at 231-360-2557.

**LELAND TOWNSHIP PLANNING COMMISSION
NOTICE TO THE PUBLIC**

Public Hearing

Wednesday, April 7, 2021 - 7 p.m.

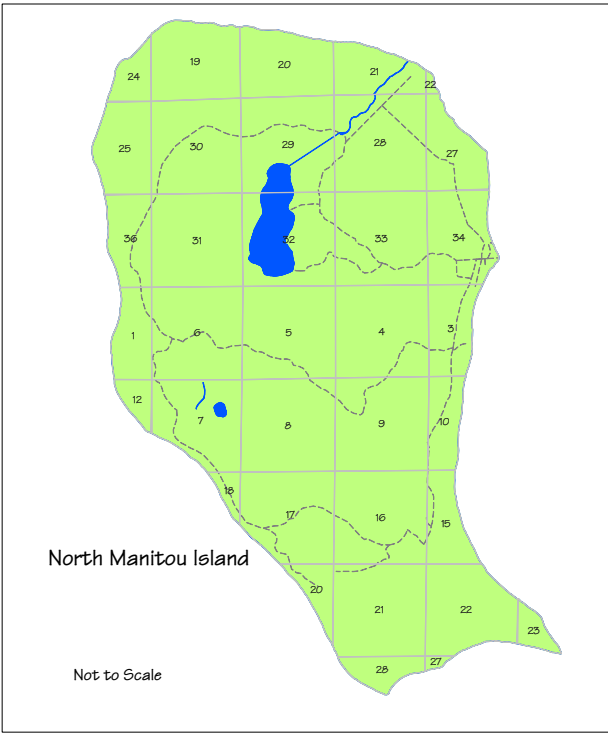
**Meeting to be held in the Leland Township Office, 123 N. St. Joseph St., Lake Leelanau, MI, and via Zoom @ <https://us02web.zoom.us/j/82183750000>
Meeting ID: 821 8375 0000, One tap mobile, +16468769923, 82183750000# US
(New York), +13017158592, 82183750000# US (Washington DC)**

Joseph Psenka, d/b/a/ The Snowbird Inn, respectfully requests a Conditional Rezoning of his property to allow for a Cidery, in conformance with Zoning Ordinance Article 18.25. The property is located in the AR: Low Density Agricultural – Residential District. Tax ID 45-009-021-026-00. The parcel is located at 473 N. Manitou Trail, (M-22); Lake Leelanau, Section 21, T30N, R12W, Leelanau County, Michigan.

To review the application, please call for an appointment to visit the Leland Township Office, 123 N. St. Joseph St., Lake Leelanau (231-256-7546, ext. 201), between 10:00 a.m. and 3 p.m. Monday through Friday. To submit comments before the hearing, write Leland Township PC, P.O. Box 238, Lake Leelanau, MI 49653; fax (231) 256-2465; or phone 231-360-2557, or email zoning@lelandtownship.com .

Timothy A. Cypher, Leland Township Zoning Administrator

Leland Township Zoning Map

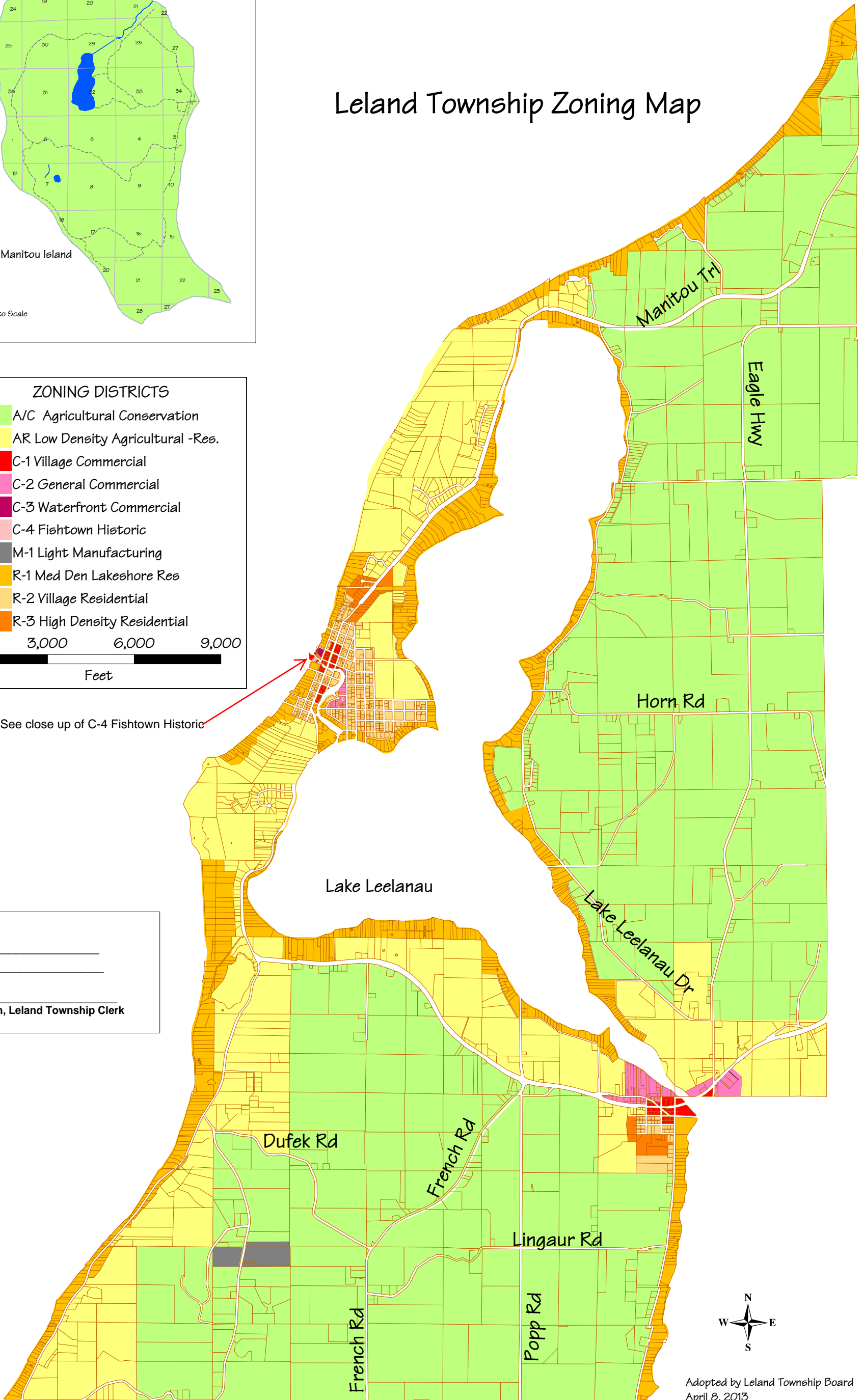


ZONING DISTRICTS

- A/C Agricultural Conservation
- AR Low Density Agricultural -Res.
- C-1 Village Commercial
- C-2 General Commercial
- C-3 Waterfront Commercial
- C-4 Fishtown Historic
- M-1 Light Manufacturing
- R-1 Med Den Lakeshore Res
- R-2 Village Residential
- R-3 High Density Residential

0 3,000 6,000 9,000
 Feet

See close up of C-4 Fishtown Historic



Adopted: _____
 Effective: _____

Jane M. Keen, Leland Township Clerk



Adopted by Leland Township Board
 April 8, 2013

Note: This is not the official Township Zoning Map, if there are any discrepancies between this map and the map maintained by the Township, the latter shall be deemed to govern.

Sent
12-14-20

PETITION FOR ZONING ORDINANCE AMENDMENT

Leland Township, Leelanau County, Michigan

(Use for Amendment to Zoning Ordinance text or Zoning Map; See Article 5)

(All references to "Section" and "Article" refer to the Leland Township Zoning Ordinance)

Important Notice to Applicants: 15 copies of this petition must be completed in full and submitted to the Zoning Administrator. All questions must be answered completely. If additional space is needed, number and attach additional sheets. The total number of attached sheets is 18.

Name and Address of Petitioner:

Joseph Senka
973 N. MARSHALL
LAKE LELANAU, MI 49653

Phone Number of Petitioner:

Residence: 231-256-9773
Work Place: 248-789-5419

Petitioner's Interest in Property

(Circle appropriate response below)

Owner Lessee Option to Buy
 Other (please explain _____)

Name, Address, Phone Number of Property Owner

(If different than Petitioner)

FOR TOWNSHIP USE ONLY

Petition Number: _____
Date Received: _____
Tax Parcel Number: _____
Fee Received: (amount and date) _____
Fee Receipt Number: _____

Special Notes:

PLANNING COMMISSION:
Application Received (date): _____
Recommended Action: _____
Public Hearing Date(s): _____
Public Hearing Advertising Dates: _____

TOWNSHIP BOARD:
Application Received (date): _____
Action Taken: _____
Public Hearing Date(s): _____
Public Hearing Advertising Dates: _____

Zoning Administrator

Date

PART 1: ACTION REQUESTED - *Conditional Rezoning*

It is hereby requested that the Leland Township Planning Commission and Township Board approve the following petition for zoning amendment.

A. **Text Amendment:** Amend Section _____, to delete, supplement, or clarify the Leland Township Zoning Ordinance by making the following change(s):

B. **Zoning Map Amendment (Rezoning):** Rezone the property described in "PART 2: PROPERTY INFORMATION" of this Petition from the _____ District to the _____ District for the following purpose (include proposed use of the land):

PART 2: PROPERTY INFORMATION

(Complete this Part only if requesting an amendment to the Zoning Map)

A. **Legal description of property affected:**

Property Number 009-021-026-00

B. **Address of Property:** *473 N. MANITOWOC RD. W*

C. **List of all deed restrictions:** _____

D. **Names and addresses of all other persons, firms, or corporations having a legal or equitable interest in the land:**

1) _____
2) _____
3) _____

E. **This land is:** unplatted or platted (circle appropriate answer)
If platted, name of Plat: _____

F. **Present use of the property is:** *AGRICULTURAL - BED + ZONING LIST.*

PART 3: DRAWINGS REQUIRED *

(This part applies only if requesting an amendment to the Zoning Map)

A. **Scaled Drawing:** The petitioner shall submit 15 copies of a scaled drawing of the property correlated with the legal description, at a scale of 1" = 100', clearly showing the location, shape, area and dimensions of the lot(s) affected by the proposed rezoning, and the location of the site in relation to the surrounding street system and adjacent land uses within three hundred (300) feet in every direction including on the opposite side of any public thoroughfare.

** See attached Plans - 12-14-20*

PART 4: STATEMENT OF JUSTIFICATION FOR REQUESTED ACTION

A. Provide a Statement of Justification for the amendment request:
See the attached statement & supporting documents.

- B. In support of the above Statement of Justification, please answer the following questions and attach your answers to this application. See Section 5.04(D)(1).
1. What, if any, identifiable conditions related to the application have changed which justify the proposed amendment?
 2. What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition?
 3. What is the impact of the amendment on the ability of Leland Township and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed amendment is adopted?
 4. Does the petitioned district change adversely affect environmental conditions, or the value of the surrounding property?
 5. Does the petitioned district change generally comply with the adopted Comprehensive Development Plan?
 6. Is the property currently able to be put to a reasonable economic use in the zoning district in which it is presently located?

C. **Nonconformance with the Comprehensive Development Plan:** If the proposed amendment does not conform to the Comprehensive Development Plan, why should the change be made? Please be specific, brief and attach any supporting documentation which substantiates your claim. This could include an allegation that the existing zoning is in error which would be corrected by the proposed change, or that specific changes or changing conditions in the immediate area or in the Township make the amendment necessary for the promotion of public health, safety and general welfare.
N/A

PART 5: AFFIDAVIT

I (we) the undersigned affirm that the foregoing answers, statements, and information are in all respects true and correct to the best of my (our) knowledge and belief.

James Paul 3/4/17
Signature(s) of Petitioners Date

Property Owner's(s) Signature(s) Date
(if different than applicant)

Part 4: Statement of Justification for Requested Action

A. Provide a Statement for the amendment request:

It is our desire to open a cidery and tasting room at this location offering cider and related products.

B. In support of the above Statement of Justification, we offer the following:

1. We began this project @2010 with the preparation of planting of an apple orchard specifically with apples for hard cider. At that time cideries were an allowed use in the AR district and we confirmed that with the zoning administrator. As we were not ready to proceed until the apple trees matured and began bearing fruit, we elected to wait to begin the process. We have @ 4+ acres planted with 7 varieties of apples specific to hard cider.
2. I can see no negative precedents from approval.
3. I can see no negative impact on the ability of Leland Township and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if this proposed amendment is adopted.
4. Allowing this request does not adversely affect the environmental conditions, or the value of surrounding property. It is already being used for agricultural purposes. Additionally, there is a winery located nearby within the same zoning.
5. This change is very much in compliance with the adopted Comprehensive Development plan.

7.3.1 Land use goal – Retain the Township’s rural and scenic character by preserving farmlands.....

- a. Encourage retention of farmland, forestland and open space through coordinated land use plans and related regulations.
- e. Provide multiple options for land development, while allowing the continued agricultural use, protection of significant natural features and important views.
- g. Explore and pursue methods to preserve the rural character of road corridors, scenic heritage routes and scenic vistas within view of these corridors.

7.3.2 Agricultural Support Goal – Encourage opportunity for innovative programs to support continued agricultural activities.

- a. Recognize that the presence of agricultural lands adds to the scenic and rural character of the Township, as well as its economic health.
- b. Allow for the pursuit of economically feasible options for continued agricultural use of active farmland, such as value-added agricultural, local agri-tourism, and agricultural support services.

d. Encourage establishment of public and private local facilities through which local resource-based products can be sold.

7.3.5 Economic Goals – Strengthen the local economy through the development and retention of enterprises that provide employment opportunities. Preserve Leland Township as a tourist- friendly community.

- a. Work cooperatively with local economic development groups to retain and attract business.

e. Work with the Heritage Route Committee to enhance the corridors through Leland Township.

Chapter 8: Future Land Use Recommendations -

At present, Leland Township is primarily a rural residential, agricultural, and tourist based community... While active agricultural uses have declined from historic levels, the many active farms that remain are highly valued by the local residents....

The Farm-Forest category includes those lands within the Township where agricultural and/or forested land uses are encouraged to continue on a long term basis and are afforded opportunities and protections to do so. Agricultural lands included in the Farm-Forest area embody one of more characteristics which strongly support long term economically viable agricultural operations....

6. The economic viability of this property is limited by being zoned AR.



Leelanau County Property Information (Assessment Year - 2019)

Jurisdiction: LELAND 45-09

Owner Name: PSENKA JOSEPH A JR

Property Address: 473 N MANITOU TRL
LAKE LEELANAU, MI 49653

Mailing Address: 473 N MANITOU TRL
LAKE LEELANAU, MI 49653

Property Information

Period	Taxable Value	Assessment	S.E.V.
Current Year	\$134,661	\$209,100	\$209,100
Last Year	\$131,505	\$187,600	\$187,600

School District: 45020

Current P.R.E.: 50%

Current Property Class: 401

Current Year Tax Information

Tax Period	Tax Amount	Tax Owed
Summer	\$2,772.76	\$2,828.22

Prior Years Tax Information

Tax Period	Tax Amount
Summer 2018	\$2,759.05
Winter 2018	\$674.67
Summer 2017	\$1,880.91
Winter 2017	\$635.56
Summer 2016	\$1,868.71
Winter 2016	\$608.36

Delinquent Tax Information

For current delinquent tax information or to pay your delinquent taxes online, [CLICK HERE](#) and you will be redirected to a third party site.

Legal Description

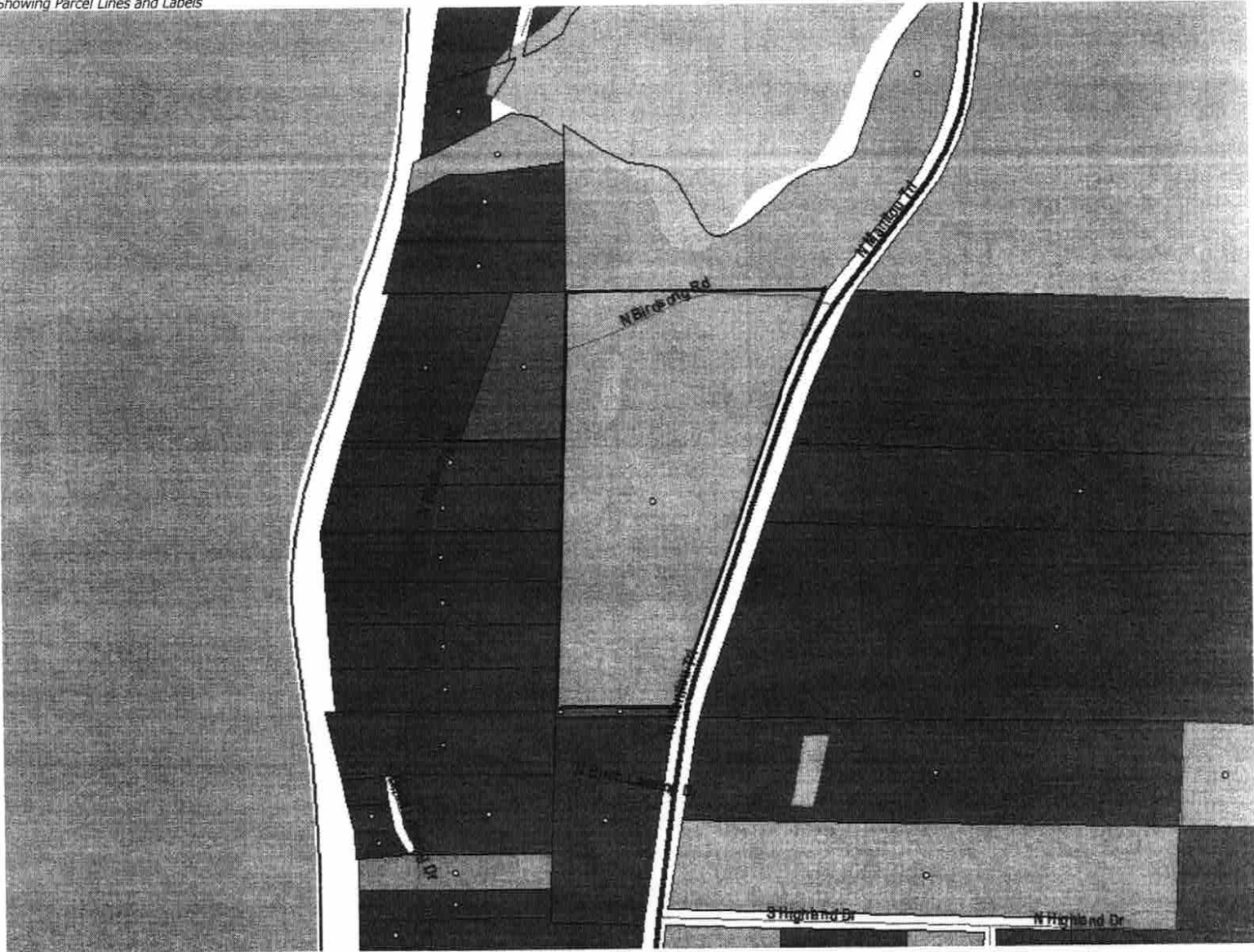
PRT OF SW 1/4 SEC 21 BEG W 1/4 COR SD SEC TH S 89 DEG 47'15" E 879.30 FT ALG E-W 1/4 LN TO C/L ST HWY M-22 TH ALG SD C/L & CURVE TO LEFT RADIUS IS 1410.98 FT & DISTANCE OF 415.07 FT CH-S 26 DEG 53'30" W 413.58 FT TH S 18 DEG 27'50" W 849.39 FT ALG SD C/L TH CONT ALG SD C/L & CURVE TO LEFT RADIUS IS 1399.20 FT & DISTANCE

OF 131.01 FT CH-S 15 DEG 46'50" W 131.01 FT TH N 89 DEG 31'10" W 414.21 FT TO W LN SD SEC 11 T11 N R12 W
1300.66 FT FOR POB SEC 21 T30N R12W 18.4 A M/L.

Powered by Community Center™ software from the Land Information Access Association

Current Taxable Value

Showing Parcel Lines and Labels



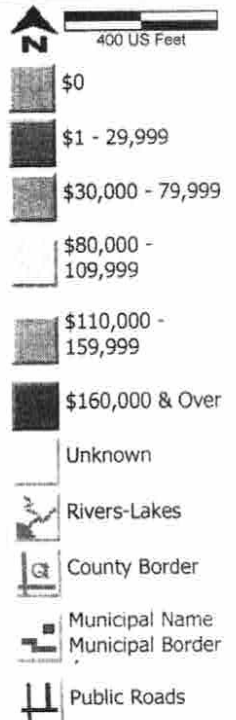
CURRENT TAXABLE VALUE

The property taxable value information was obtained from the tax parcel database provided by the Leelanau County Equalization Department.

The property line data for Leelanau County was provided by the Equalization and Planning Departments. The parcel areas shown are meant to represent ownership parcels as described by the TAX ID number (each parcel area should correspond to a single TAX ID number, except where a road or other area splits the parcel into multiple areas). Where possible, the parcel map was adjusted to "fit" the database. However, there remains parcels on the map for which no data is attached, and database records for which no mapped parcel could be identified.

The computerized version of the tax parcel map seen here has NOT been VERIFIED as being correct and accurate, and inconsistencies between the parcel data and data sets provided by other agencies (e.g., the MDNR) do exist. This parcel information is included for general reference purposes only and should only be used to identify the general vicinity of a particular piece of property.

For specific information for a given parcel, add the parcel lines and labels to the map, then click on the label for the parcel you are interested in. Detailed information for that parcel will appear in this text box.



2.30' REC.
TAS. (IRON TO IRON)
WEST 1/4 LINE
SECTION 21

FCI

EXISTING GRAVEL ROAD



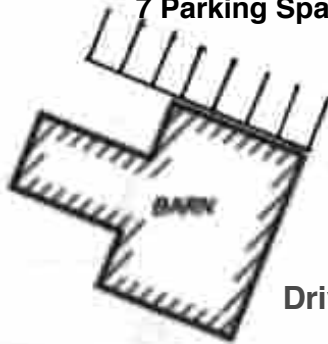
Driveway/Exit
(One-way)

10 Parking Spaces

10 Parking Spaces

Existing Sign

7 Parking Spaces



CAR GARAGE

40 ft

Driveway/Entrance
(One-way)

EXISTING 3' WIDE PATH

Site Plan - Snowbird Inn
473 N. Manitou Tr. (M-22 Highway)
Lake Leelanau, MI 49653
December 14, 2020

Future Porch

GRAINARY

Existing Hedge

7 Parking Spaces

SMALL HOUSE

473
EXISTING
SNOWBIRD
BED & BREAKFAST

Existing Sign

LEGAL DI

Joseph Psenka, d/b/a The Snowbird Inn
473 N. Manitou Tr. (M-22 Highway)
Lake Leelanau, MI 49653
Section 21, T30N, R12W
Leland Township, Leelanau County
Parcel No. 45-09-009-021-026-00

Leland Township, Leelanau County, Michi

Parcel Size: 18.4 acres
Zoning: Low Density Agricultural Residential

Parcel A: A parcel of land in the South

LELAND TOWNSHIP PLANNING COMMISSION
Wednesday, April 7, 2021 - 7:00pm
Leland Township Office meeting room
123 N. St. Joseph St. Lake Leelanau, MI
and Zoom Meeting Room
<https://us02web.zoom.us/j/82183750000>

PRESENT: Chair Dan Korson; Clint Mitchell, Township Board Rep;
Ross Satterwhite, ZBA Rep; and Vice Chair Skip Telgard

STAFF: Tim Cypher, Zoning Administrator

ABSENT: Sam Simpson, Secretary

GUESTS (IN-PERSON): Chris Bunbury, Chris Grobbel, PhD, Lisa
Psenka, Greg Jollif, Charles Psenka, Marlis Mann, Gene Mann, Jim
Simons and Shirley Affalter

GUESTS (ZOOM): Zoom meeting participants: Nancy Smith, Gloria
Garrett, Jack Wixted, John Wellborn and Jonathan Psenka, MD.

CALL TO ORDER: Chair Dan Korson called the meeting to order at
7:05pm with the Pledge of Allegiance.

AGENDA: Chair Korson called for a motion to approve agenda for
April 7, 2021, meeting as presented. Satterwhite moved to
approve the agenda as presented; supported by Telgard. All in
favor, motion carried.

DECLARATION OF POTENTIAL CONFLICTS OF INTEREST: No conflicts of
interest declared.

APPROVAL OF MINUTES: Chair Korson asked for a motion to approve
minutes from the March 2021 meeting. Mitchell requested to
change a sentence in last paragraph, line 13 and 14, to state
"Mr. Mitchell has concerns about Mr. Bunbury paying for a
document that would include more Planning Commission Board ideas
than his own." Chair Korson moved to approve the March 3, 2021,
minutes as presented with changes updated on page five; Mitchell
seconded. All in favor, motion carried.

PUBLIC COMMENT: No public comment at this time.

REPORT FROM TOWNSHIP BOARD REP: Clint Mitchell reported on the annual meeting with a lot being accomplished and many people in attendance who were able to share their opinions for the township.

REPORT FROM ZBA REP: Ross Satterwhite reported there are no updates at this time.

NEW BUSINESS - No new business

OLD BUSINESS

Psenka - Conditional Rezoning Application - Public Hearing

1. Presentation by Applicant - Dr. Grobbel reviewed on behalf of Psenka's, the conditional rezoning application. Dr. Grobbel advised that basically there are three issues which include the terms of the conditional rezoning, with the planning commission having the authority to establish the timeframe. Dr. Grobbel feels that through the normal course of business, the zoning administrator has the ability to write a stop use or stop work order in this case. Dr. Grobbel reported, as specified last month, the Psenka's are asking for a conditional rezoning for a cidery on the property of the Snowbird Inn that would be in perpetuity. Dr. Grobbel stated that the second item has to do with the required permits and as he has stated since the beginning of this process that that any and all permits and documentation would be provided to the township for their records that is in accordance of all the statutes, standards and regulations. The third item, per Dr. Grobbel consists of the hours of operation and as he said last month the Cidery would mirror the hours of operation of the Good Harbor Tasting Room and Winery to the south. Dr. Grobbel reported that the siteplan and required narrative was submitted in December with the hope that after the public hearing the planning commission can make a decision on the proposed conditional rezoning application.
2. PC Questions/Discussion with Applicant - No questions at this time.
3. Public Comment

Jim Simons asked for a review of the hours of operation.
Cypher read into the record the following hours of April to

November, Monday to Saturday are 11am to 6pm, with Sunday hours of 12pm to 5pm. December to March hours are Thursday through Sunday, 12pm to 5pm.

Nancy Smith asked if a liquor license is required, and if so, has it been obtained or is it in process? Cypher reported that the license would need to be obtained from the Michigan Liquor Commission. The license will not be granted in advance, with township approval needed prior to application for a liquor license.

Gloria Garrett, who resides at 543 N. Birdsong Road, reported she was just made aware of this a few minutes ago and is very concerned because of this request being in perpetuity and may possibly have to be stopped in the future. Garrett expressed concern about this conditional rezoning will bring potential harm, destruction and upset the quietness of the area. Garrett feels that with the amount of money she spent on living in a quiet, wooded area, this would affect her lifestyle and the roads.

Jack Wixted, a homeowner, who is also representing his wife, Carol, is concerned about the significant wetland area, which goes back two acres of his property at 347 Birdsong Road, a has a conservancy easement. Wixted inquired if the conservancy was notified of the conditional rezoning and does the DNR and EGLE need to be involved.

Smith has concerns about the conditional rezoning being in perpetuity along with questions from Wixted about Tandem Cidery and does Good Harbor Winery have rezoning in perpetuity also?

Chair Korson asked Dr. Grobbel to speak to questions asked at this point. Dr. Grobbel advised that hours of operation are what is already in the neighborhood, with the Good Harbor Winery not being subject to a conditional rezoning as it is a winery not a cidery. Dr. Grobbel advised that there are no new buildings or events being proposed, only a new use. The proposal is for hard and soft cidery products and donuts. The Leelanau Conservancy is an easement holder and property owners are only required under Michigan Law to be notified, Dr. Grobbel reported. Dr. Grobbel advised that no legal requirement for an environmental impact study is needed, with no EGLE involvement as this is a township rezoning matter.

Cypher advised that a notification was sent to the property owner, Helen A. Osborne Trust, and not to the conservancy as they do not own the land and have burdened part of the land with a conservation easement on the property.

John Wellborn, 385 N. Birdsong Rd, had a procedural question as to whether tonight is about the conditional rezoning with the site plan being part of a separate hearing, with Cypher stating this is correct.

Wixted asked about the Tandem Cidery rezoning being in perpetuity with Cypher advising that Tandem Cidery is in another township. The public would need to get with Suttons Bay Township regarding the specific approval and what that entailed.

Smith strongly recommends not granting conditional rezoning in perpetuity as that leaves the township wide open to other alcohol usage that may not be approved. Smith had a question about what type of alcoholic beverage would be included with licensing. Dr. Grobbel reported that the Psenka's are only asking for a cidery tasting room and donuts with no tavern or bar being proposed. Dr. Grobbel stated that Psenka's are asking for conditional rezoning in perpetuity, as long as use is in agreement with township ordinances in order not to be back every few years to request approval, which he feels is a reasonable request. Discussion followed.

Dr. Grobbel advised that he is just now hearing that the site plan review is not slated for approval tonight and it was his understanding that it was to be approved tonight. Dr. Grobbel reported why has there not been any feedback on any issues with the site plan. Dr. Grobbel disagrees with another meeting for the site plan approval next month. Discussion followed regarding conditional rezoning and site plan.

Marlis Mann asked why a liquor license is needed for the cidery. Dr. Grobbel advised that hard cider is being proposed and the State of Michigan requires a liquor license not the township. Mann shared the 52-year history of the Snowbird Inn when she lived there before they sold to the MacFarlands. Mann has concerns of parking on M22 and loud music. Dr. Grobbel advised no music events are being planned and Psenka's are not anticipating a significant increase of traffic and parking has to be off street and on-site. Lisa Psenka stated that they are proposing something that mirrors the winery just

down the street. Discussion followed regarding parking, noise levels, along with protocol on moving the meeting forward.

Garrett, 543 Birdsong Rd., is very concerned about having alcohol consumption at the beginning of the road, which could make current alcohol surrounding Snowbird Inn even worse. Garrett and Wixted have concerns of the parking situation.

Chair Korson asked for anymore public comment via zoom attendees.

Wellborn reiterated his question of is tonight's meeting strictly about the rezoning or will the public be asked to comment on the site plan itself. Chair Korson advised that during planning commission with staff discussion, it will be determined if one or two separate meetings are necessary for the site plan and conditional rezoning requests.

Commissioner Mitchell questioned why there was not more effort in making property owners aware the Psenka's plans.

Jonathan Psenka, MD, one of owners of the Snowbird Inn, shared the family's plan of having the cidery since the planting of the apple trees. Psenka had discussions with Cypher 8 to 10 years ago regarding the cidery plans. Psenka advised that Birdsong Road characterization with alcohol, etc., is not very accurate in his opinion. Psenka stated this is their home and they have raised their families at the Snowbird Inn, with the Cidery not being a new idea. Discussion followed.

Chair Korson closed the public comments at this time and asked for response from the applicants.

4. Applicant's Response to Public Comment

Dr. Grobbel shared that he feels they are getting through the issues and that property owners within 300 feet were notified of a public meeting, with no legal requirement to go door to door. Dr. Grobbel advised that this process has been ongoing for more than two years with the applicant asking the planning commission how to proceed and Psenka's have been given the process with everything being completed (e.g. site plan, narrative, public meeting) in December. It is now April and the Psenka's are hoping, in good faith, that the township continue with the conditional rezoning application and site plan review tonight.

5. PC Discussion with staff

Cypher read into the record the following email from legal counsel, Robert Parker, on Friday March 5, 2021, to Tim Cypher, ZA about addressing the issue of running the applications side by side:

"The question you have raised is whether the Township may or should conduct site plan review of the proposed activities at the same time that it considers the conditional rezoning of the applicant's property from Low Density Agricultural Residential to Agricultural Conservation.

I see nothing in the Township's ordinance which would compel the Township to address this application in the manner suggested and believe that there may be some practical reasons for it not to do so.

As you know, that section of the Zoning Enabling Act which permits conditional rezoning specifically provides that the Township "shall not require a landowner to offer conditions as a requirement for rezoning" MCL 125.3405(5). Although cideries are permitted within the AC district, the applicant must seek and obtain site plan review and approval and in certain instances may be required to obtain a special land use permit. That process necessarily involves some give and take between the Township and the land owner in terms of design and performance assurances. My concern is that without a bright line, those discussions could be viewed as the Township imposing requirements upon the land owner as a condition to approving the rezoning. Completing the rezoning process separately from the site plan review, avoids this confusion and protects the Township from subsequent legal challenges. I know it's more time consuming but it is much cleaner."

Cypher advised that based on this directive from the attorney, he posted the public notice for the April 7, 2021, meeting for the conditional rezoning. Cypher reported that he concurs with Mr. Parker and there will not be a site plan review at tonight's meeting. Cypher advised that if Dr. Grobbel is aggrieved by his decision, it can be taken to the Leland Township Zoning Board of Appeals. Cypher feels that the Planning Commission has done its best to move along this conditional zoning request. Larry Sullivan commented that addressing the site plan prior to the Township Board making a decision would be in vain if the conditional rezoning application is denied. Discussion followed with general consensus to abide with legal counsel and the zoning administrator's decision of a two-part process.

Dr. Grobbel advised that information for the conditional rezoning and site plan was supplied in December and that there is no reason to bifurcate the process.

Chair Korson directed the planning commission to move on to the conditional rezoning request.

Mitchell asked about the perpetuity request with Cypher advising that the applicant is asking for that, which is what the Planning Commission needs to take at face value. Discussion followed. Sullivan advised that can recommend approval (in which case it goes to the County Planning Commission), recommend denial or table. Discussion followed with input on conditional rezoning request procedure from Dr. Grobbel.

6. PC Deliberations/Findings of Fact

Discussion ensued regarding in perpetuity versus reviewing on a regular basis if complying with conditional rezoning.

Cypher advised to follow the handout on Article 5, Section 5.04.D, as those six questions should be asked procedurally:

- a. What, if any, identifiable conditions related to the application have changed which justify the proposed amendment? Cypher advised that applicants want to mirror the winery requirements with the cidery conditional rezoning. Discussion followed regarding procedures.
- b. What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition? Chair Korson feels that precedent will be set in the AG district with other owners requesting the same; Telgard has no comments; Mitchell disagrees that an official precedent does not exist; Satterwhite questioned how much AG area the township really has. Discussion followed with 9% zoned AG being reported.
- c. What is the impact of the amendment on the ability of the Township and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed amendment is adopted? Cypher advised no buildings being added so public services will not be affected. Telgard sees no adverse affects; Mitchell states police and fire will be affected; Korson and Satterwhite agree with Mitchell.

- d. Does the petitioned district change adversely affect environmental conditions, or the value of the surrounding property? Telgard doesn't see anything destructive to the surrounding properties due to existing bed and breakfast with Korson, Mitchell and Satterwhite in agreement.
- e. Does the petitioned district change generally comply with the adopted Comprehensive Development Plan? Telgard states it does comply; Mitchell agrees generally; Korson stated that information from community is about rural characteristics of the township, with this application being commercialization. If it continues being allowed, it could change what the planning commission is trying to accomplish in the township with respect to the Master Plan; Satterwhite agrees that this request is not an established use in the Master Plan.
- f. Is the property in question able to be put to a reasonable economic use in the zoning district in which it is presently located? Satterwhite asked if it is reasonable economic use. Discussion followed. Telgard, Korson and Mitchell in agreement.

Cypher advised that the applicant would not have had to even apply through the Planning Commission if the Psenka's just put up a roadside stand to sell the hard apple cider product and the review is about use of an existing building. Discussion followed with input from the applicants as well. Psenka's feels the land-use with the heritage apple orchard is a better use. Psenka stated does the township want to see the land cut up into sections for development?

Cypher clarified for Korson that there are no other wineries or cideries in the AG district in Leland Township, but to be aware that there has been no audit.

Chair Korson reviewed the application request in perpetuity usage. Discussion followed regarding amending the proposal. Dr. Grobbel advised there are existing safety controls if the conditions are violated. More discussion ensued. Dr. Grobbel requests a number of years to come back versus in perpetuity with the fact that \$5,000 cost to come back for re-approval.

Discussion followed. Cypher advised that normally zoning runs with the land.

Satterwhite stated that this is a hard decision so it does take a while and does not want to keep bringing people back for approval over and over. Satterwhite feels there are a reasonable set of rules and coming back a few years later makes it harder to invest in your business. Mitchell is fine either way. Telgard understands both positions and the money piece is pretty onerous, with the inclination of having them come back after two or three years, with neighbors perhaps being more on board with it. Cypher reiterated that the conditional rezoning runs with the land and the use has abide by the established conditions. Discussion followed with Dr. Grobbel advising that the application as it stands in perpetuity is the Psenka's request.

7. PC Motions/Action - Chair Korson asked for a motion to vote on approval or disapproval of the Psenka's conditional rezoning application. Satterwhite moves to approve the Psenka's conditional rezoning application based on the conditions set forth in the applicant's presentation, which includes in perpetuity, required permits and documentation, and hours of operation. Mitchell seconded. Roll call vote: Telgard-yes; Mitchell-yes; Korson-yes, because it was in works before the property was rezoned, otherwise he would have voted no; and Satterwhite-yes. All present in favor, motion carried.

Ten minute meeting break. Meeting resumed at 8:45pm.

Zoning Amendments - Status - Lot Coverage/Character Clause

Cypher reported on discussions with Sullivan, with updated information in the planning commission meeting handouts. Discussion followed. Satterwhite shared that this Lot Coverage/Character Clause is important for the planning commission to do as there are no guardrails at the moment. Satterwhite feels an obligation to tackle it, get more information from the public and see if the planning commission can do something reasonable. Korson states that he feels there are some guardrails in place, which can be improved upon, especially the waterfront. Korson feels the planning commission can tighten things up without being too restrictive. Extensive discussion followed. The consensus of the planning commission is that Satterwhite will work on an analysis and do some math

with respect to the parcels and structures. Bunbury appreciates all the work and willingness of the planning commission members to take on this project.

Master Plan - Status - Update from Planner and ZA

Cypher advised to table the Master Plan update from the Planner and Zoning Administrator until the next meeting in May. If there are any comments on the update in the packets, send directly to Cypher who will disseminate to the commissioners. Cypher clarified with Mitchell that he will get him the 2010 census data for comparison from 1990 to 2010. Satterwhite moved to table the Master Plan update until the May Planning Commission meeting, Telgard seconded. All in favor, motion carried.

OTHER BUSINESS (as required)

No other business presented.

Zoning Administrator Comment: Mr. Cypher reviewed March monthly report and reports has been a busy month.

Planning Commission Comment: None at this time.

Public Comment: None at this time.

The next meeting is scheduled for Wednesday, May 5, 2021

Adjournment: There being no objection, Chair Korson adjourned the meeting at 9:40 p.m.

Respectfully Submitted

Sandra Dunkin, Recording Secretary

Date Approved:

LELAND TOWNSHIP PLANNING COMMISSION
Wednesday, March 3, 2021
Zoom Meeting Room
<https://us02web.zoom.us/j/83461597439>

PRESENT: Chair Dan Korson, Sam Simpson, Vice Chair Skip Telgard, Clint Mitchell and Zoning Administrator, Tim Cypher

ABSENT: Ross Satterwhite, ZBA Representative

GUESTS: Larry Sullivan, Chris Bunbury, Christopher Grobbel, PhD., and Alexander Janko

CALL TO ORDER: Chair Dan Korson called the meeting to order at 7:05pm with the Pledge of Allegiance.

AGENDA: Chair Korson called for motion to approve agenda for March 3, 2021, meeting. Vice Chair Telgard moved to approve the agenda as presented; supported by Sam Simpson. All in favor, motion carried.

DECLARATION OF POTENTIAL CONFLICTS OF INTEREST: No conflicts of interest declared.

APPROVAL OF MINUTES: Chair Korson asked for motion to approve minutes from the February 2021 meeting. Vice Chair Telgard moved to approve the February 3, 2021, minutes as presented; supported by Mr. Simpson. All in favor, motion carried.

PUBLIC COMMENT: No public comment.

REPORT FROM TOWNSHIP BOARD REP: Clint Mitchell reported that budget workshops are complete, with planning monies set aside for Master Planning this year.

REPORT FROM ZBA REP: Mr. Cypher, as Mr. Satterwhite was absent, advised "nothing in the pipeline."

NEW BUSINESS

No new business

OLD BUSINESS

Psenka - Conditional Rezoning Application & Winery/Cidery Approval (informational)

1. Presentation by Applicant - Version 2 - Chris Grobbel, PhD. reported that after the February 3, 2021 planning meeting that he felt he needed to address the following three issues. The first issue is the period of conditional rezoning. Dr. Grobbel reported he does not think it is appropriate for a time period to be applied under Michigan Law. However, Dr. Grobbel stated that the conditional rezoning stops when the approved use stops (i.e. Sunset Clause).

Dr. Grobbel reported that the second issue is that all copies of permits will be provided for the conditional rezoning use.

Dr. Grobbel advised the third issue is the hours of operation. The proposed hours are April through November with Monday through Saturday hours of 11am to 6pm and Sunday hours of 12pm to 5pm with December through March hours of Thursday through Sunday hours from 12pm to 5pm.

Dr. Grobbel reported that Mr. Psenka is in the hospital, is very ill, and that his daughter, Lisa, is now the contact person for the project.

2. PC Questions/Discussion with Applicant - Chair Korson asked for any questions or comments of the applicant.

Vice Chair Telgard confirmed with Dr. Grobbel that the conditional use permit runs with the parcel and that a transfer of ownership would not affect the approved use. Chair Korson asked if there is a time limit of how long the use has to have been stopped, which Dr. Grobbel advised would be at the Zoning Administrator's determination unless there is an abandonment clause in the ordinance. Mr. Sullivan reported that typically that the property has been rendered unusable for the approved purpose for a 12-month time period with Mr. Cypher in agreement.

Chair Korson has some questions for Mr. Cypher regarding the Right to Farm Act and why this was not looked at prior to the conditional rezoning request. Discussion followed regarding court cases regarding the Right to Farm Act with input from Chair Korson, Mr. Cypher, Dr. Grobbel, and Mr. Sullivan. Mr.

Simpson reported that he sees nothing unreasonable with the request and confirmed with Dr. Grobbel that there are no events being requested. Mr. Simpson feels this request falls within the parameters of what businesses the planning commission wants to see in the area and the Sunset Clause seems reasonable.

Mr. Cypher confirmed with Dr. Grobbel that the entrance would be off of M22 with the exit off of Birdsong. Mr. Cypher advised that there is already an easement and had inquiries of whether the Road Commission has put up any road blocks. Dr. Grobbel reported that if conditional rezoning is approved, all necessary permits would be provided and that MDOT does not want to start talking until they have the township Planning Commission approval document.

Mr. Sullivan confirmed with Mr. Cypher that the traditional site plan review process would be required. Dr. Grobbel advised his understanding that this was the site plan review process was completed as the site plan was previously provided. Discussion followed regarding the site plan review process with Mr. Cypher and Mr. Sullivan. Mr. Cypher advised he will contact their legal counsel regarding the approval of the conditional rezoning whether one more meeting regarding the site review is required with respect to the difference of opinion. Mr. Cypher reported this will not affect setting a public hearing for next month.

Mr. Simpson questioned as to the ramifications of not moving forward and has an issue been missed with Mr. Cypher advising that everything has been provided for the site plan review with difference of opinion on process. Discussion followed. Mr. Simpson confirmed with Dr. Grobbel that the applicant will not want to push the issue, but he cannot speak for him. More discussion ensued. Mr. Cypher advised that once he speaks with legal counsel if there is anything that will expedite the process, it will be completed.

Mr. Sullivan confirmed with Mr. Cypher that if public hearing is approved by the planning commission at this meeting, there is plenty of time to have the public hearing at April's Planning Commission meeting with site plan review as well.

Dr. Cypher confirmed for Dr. Grobbel that the legal counsel is Robert Parker and Mr. Cypher recommends that the planning commission set a public hearing for their next meeting and he

will put together a packet based on findings from legal counsel.

3. Public Comment - Tabled at this time.
4. Applicant's Response to Public Comment - Tabled at this time.
5. PC Discussion with staff - Tabled at this time.
6. PC Deliberations/Findings of Fact - Tabled at this time.
7. PC Motions/Action - Vice Chair Telgard moved to set a public hearing for the Psenka Conditional Rezoning Application & Winery/Cidery pending on legal counsel's recommendation to Mr. Cypher as soon as possible. Mr. Simpson seconded. All in favor, motion carried.

Zoning Amendments - Status - Lot Coverage/Character Clause

Chair Korson confirmed with Mr. Cypher that work so far is appropriate in that there are Escrow Funds from Mr. Bunbury for Mr. Cypher and Mr. Sullivan to work on proposed lot coverage/character clause. Discussion followed regarding the existing zoning ordinance and three possible options to amend the ordinance provided by Mr. Sullivan.

Mr. Sullivan reviewed the three proposed amendments based on items raised by Mr. Chris Bunbury: 1) Amend the Ordinance Language in Section 18.22 Dwellings, Subsection F; 2) Amend the Ordinance to provide for an Overlay Zone; and 3) Amend the Ordinance language in multiple sections to address several items (see Zoning Ordinance Amendment Re: Bunbury Request document). Discussion ensued regarding the different methods of addressing Mr. Bunbury's request. Mr. Mitchell brought up the aspect of specific size and feels it does not work for either side with Mr. Sullivan reviewing option three without getting into a specific numbers concept.

Mr. Simpson stated that he wants to hear Mr. Bunbury's opinions on what Mr. Sullivan reviewed since Mr. Bunbury brought the lot coverage/character clause forward. Mr. Bunbury reported that his proposal strategy is his views of character from 40 years ago and seeing new larger structures coming in and that it be addressed by a not to exceed size factor. Discussion followed with input from planning commission board members and Mr. Bunbury regarding size and options with timing seen as being

good as seeing more growth in areas of Leland Township. Mr. Cypher pointed out that he feels the character is already established and understands the concern about smaller lots being sold and combined with larger homes being built. Mr. Simpson feels that this exercise is worth going through. Mr. Mitchell reported that he feels there are different uses and sizes being related to the character of Leland Township and rather than have a size specified that the planning commission work around issues as they arise. Mr. Simpson feels that the bigger issue is that smaller properties are being bought and combined with larger houses being built rather than the Cemetery Point, 25,000 square footage homes. Discussion followed. Mr. Cypher reported that there are ways to incorporate setbacks and height as they did in Glen Arbor with it being few and far between with getting homes of this size. More discussion ensued regarding various areas of the township. Vice Chair Telgard feels that option three is getting some traction with respect to setbacks and height. More discussion. Chair Korson brought up the fact that if people want lot consolidations or splits that the planning commission might be able to review these as they occur, and Mr. Cypher advised he needs to check the statute, with this being a good point.

Mr. Sullivan stated that character changes over time and option three fits well and size may be based on the character of portions of the township or neighborhood as time goes on and may not encompass the township. More discussion ensued. Mr. Cypher advised there are already restrictions on size with setbacks and that option three may be workable with fine tuning various ideas and options. Discussion followed. Mr. Cypher confirmed with Mr. Bunbury what he would like to see is that each township planning commission member put together their idea of what a house size looks like for a starting point to further discussion next month. Mr. Cypher reported that Mr. Bunbury is requesting staff input along with planning commissioners. Mr. Mitchell has concerns about Mr. Bunbury paying for a document that includes more Planning Commission Board ideas than his own. Mr. Bunbury stated he has no expectations and is interested in input from the community regarding residential preservation. Discussion followed. Vice Chair Telgard stated that what is ultimately agreed to with the idea being as a group to utilize experience and knowledge to discuss a plan. Mr. Sullivan expressed concerns the same as Chair Korson in that will the planning commission be able to come up with a consensus and should we be proceeding further. Chair Korson advised that we go forward to discuss at the next meeting with planning

commission members agreeing that it is worth pursuing the discussion. All members agreed that they are interested in bringing their ideas to the next meeting within the parameters of option three of Mr. Sullivan's amendment proposal.

Master Plan - Status - Update from Planner and ZA

Mr. Sullivan reported that he is still working on the Master Plan language and will be forwarding to Mr. Cypher by next Monday or Tuesday to disseminate to the planning commission members. Mr. Sullivan advised that the census numbers will be available closer to year's end rather than this Spring due in part to the pandemic. Mr. Sullivan believes that the Planning Commission move ahead on other sections and then when census numbers are available, they will be added and then will move forward. Mr. Sullivan confirmed with Chair Korson that will need to wait on census numbers due to impacts on decisions with respect to demographics.

OTHER BUSINESS (as required)

No other business presented.

Zoning Administrator Comment: Mr. Cypher thanked everyone for their comments this evening.

Planning Commission Comment: Mr. Simpson advised he is reserving his comments for the public comment.

Public Comment:

Mr. Simpson discussed the email regarding the Sunset Clause review from the legal counsel he received from Mr. Cypher regarding the use of Aurora Cellars property. Mr. Simpson is looking for a time frame, maybe six years, regarding an amendment that there will no longer be a renewal period. Discussion followed. Mr. Cypher advised yes, with everything subject to compliance, and more discussion needs to be forthcoming.

Dr. Grobbel commented that he stayed to listen to Bunbury discussion regarding community character and parcel/lot size. Dr. Grobbel stated that with respect to community character, as defined in the Master Plan, which must be updated every five years to be clear on process. Dr. Grobbel advised that the planning commission can only do rezoning based on the Master

Plan. Dr. Grobbel stated that what the planning commission wants to focus is the Lakeshore footprint, not footage and focus first on waterfront properties and overlays.

Alexander Janko thanked everyone for allowing him to comment. Mr. Janko feels that a packet on the website in advance would be good as it is hard to follow the discussion when one does not have access to the document being discussed. Mr. Janko feels it would be important to recognize the Village of Leland, Fishtown preservation, setbacks, footprints, non-conforming lots and that most people are just trying to work within limitations of property. Mr. Janko stated that whatever changes may be decided upon do not negatively impact the property tax income. Mr. Janko reported that he feels that public input needs to be asked for earlier than later.

The next meeting is scheduled for Wednesday, April 7, 2021

Adjournment: There being no objection, Chair Korson adjourned the meeting at 9:30 p.m.

Respectfully Submitted

Sandra Dunkin, Recording Secretary

Date Approved: April 7, 2021

LELAND TOWNSHIP PLANNING COMMISSION
Wednesday, February 3, 2021
Zoom Meeting Room
<https://us02web.zoom.us/j/89791769803>

PRESENT: Chair Dan Korson, Sam Simpson, Ross Satterwhite, Vice Chair Skip Telgard, Clint Mitchell and Zoning Administrator, Tim Cypher

ABSENT: None

GUESTS: Larry Sullivan and Christopher Grobbel, PhD.

CALL TO ORDER: Chair Dan Korson called the meeting to order at 7:10pm with the Pledge of Allegiance.

AGENDA: Chair Korson called for motion to approve agenda. Tim Cypher asked to amend agenda to include approval of March 11, 2020, minutes, before agenda item: Approval of Minutes, January 6, 2021, and 2021 Calendar of Planning Committee Meeting Dates after agenda item: Psenka Conditional Rezoning under New Business. Ross Satterwhite moved to approve the agenda as amended; supported by Sam Simpson. All in favor, motion carried.

DECLARATION OF POTENTIAL CONFLICTS OF INTEREST: No conflicts of interest declared.

APPROVAL OF MINUTES: March 11, 2020

Chair Korson asked for motion to approve minutes from March 2020 meeting. Mr. Satterwhite moved to approve the March 11, 2020, minutes as presented; supported by Mr. Simpson. All in favor, motion carried.

APPROVAL OF MINUTES: January 6, 2021

Chair Korson asked for motion to approve minutes from January 2021 meeting. Mr. Simpson moved to approve the January 6, 2021, minutes as presented; supported by Vice Chair Skip Telgard. All in favor, motion carried.

PUBLIC COMMENT: No public comment.

REPORT FROM TOWNSHIP BOARD REP: Clint Mitchell had nothing to report other than the township board is taking up Dick's Poor House Outdoor Seating expansion at this month's meeting.

REPORT FROM ZBA REP: Mr. Satterwhite advised no news to report.

NEW BUSINESS

Psenka - Conditional Rezoning Application & Winery/Cidery Approval (informational)

Mr. Cypher reported that in 2018 Mr. Psenka applied for a zoning amendment but at the time there was no consultant and Christopher Grobbel, PhD., has since been hired. Mr. Cypher stated at this time a conditional rezoning request from Dr. Grobbel has been submitted, and he is here tonight to represent Mr. Psenka. Mr. Cypher reported that this request is under the Michigan Zoning Enabling Act, 125.3405, use and development of land as condition of rezoning. Mr. Cypher reported that this is informational to start with the application fee having been paid. Mr. Cypher advised Chair Korson to follow the normal format and to possibly set a public hearing for next month. Mr. Cypher introduced Dr. Grobbel, who is well known in the planning circle and requested a breakdown on the proposal.

1. Presentation by Applicant - Dr. Grobbel thanked the Planning Commission members for allowing him to present. Dr. Grobbel advised that it is important to remember that this is not a new structure but a new use of land of the Snowbird Inn. Dr. Grobbel reported that the original application was for a cidery and that the applicant was advised to re-apply for a condition of rezoning. The owner, Mr. Psenka wants to expand to a Cidery and Tasting room per Dr. Grobbel, and that currently in addition to the bed and breakfast, there are 7.5 acres planted as an apple orchard that is use today. There are no changes proposed and it is a land use rezoning only, according to Dr. Grobbel who advised that all permits would be received with the Planning Commission being the first stop before can go to the state for additional certifications, registry and licensure. Dr. Grobbel reported on the cider making and asking for no consideration of events at this time. Dr. Grobbel feels that this falls under the AR district and not any different than a winery. Dr. Grobbel reported if the use was abandoned or cease for any reason, then the land use would be void.

2. PC Questions/Discussion with Applicant - Chair Korson asked why a cidery could not have been put in already with Mr. Cypher advising that since cideries are not specifically mentioned, that is why Dr. Grobbel is here now. There was general discussion that if a conditional rezone is approved, how would this affect other properties who may wish to do so. Mr. Cypher advised that the conditional rezoning is site specific and is not opening-up the entire zoning district, as was discussed in 2018, with the Planning Commission at the time being concerned of opening the entire AR district. Mr. Cypher advised Dr. Grobbel and Mr. Psenka are coming to the Planning Commission with a conditional rezone at this time due to the 2018 concerns. Mr. Cypher reviewed the Michigan Zoning Enabling Act and advised that Dr. Grobbel is asking for a perpetual approval, which may be satisfactory due to the conditions they are presenting. Mr. Cypher asked for comments from Dr. Grobbel or Larry Sullivan. Dr. Grobbel reported that requesting conditional rezoning for a specific parcel, which is allowed under Michigan Law, and this proposed use is very similar to a winery which is addressed in the current Master Plan.

Mr. Sullivan expressed concern about hours of operation for wineries, cideries and distilleries and does not want to see bars pop up over the neighborhood and advised it may be worth some consideration. Another concern according to Mr. Sullivan is that once approved, it is in perpetuity as it would be hard to make a case in court for two-year approval with two-year extension. Dr. Grobbel advised that they are not required to provide hours but there has been discussion of 10am to 10pm. Mr. Cypher advised that hours of operation are subject to nuisance complaints.

Chair Korson asked Mr. Cypher as to why a cidery could not be put in before now. Mr. Cypher advised that due to a cidery not being listed in current documentation, that is why Dr. Grobbel is presenting the conditional rezoning at this time. Discussion followed regarding wineries and cideries being allowed in the AG residential district. Dr. Grobbel advised that is why Mr. Psenka is looking for a conditional rezone because cideries are not specifically addressed.

Ross Satterwhite stated that wineries and cideries can be in AG commercial but not in residential. Mr. Cypher reported that the Enabling Act does mention that Leland Township does welcome Winery and Cideries to the township and that Dr.

Grobbel and Mr. Psenka are requesting a conditional rezoning, so it does not open all the AG residential district. Discussion followed regarding the sections of the act and the conditions that can be set. The Zoning Enabling Act is what is allowing them to make this conditional rezoning per Mr. Satterwhite's understanding, which Mr. Cypher agreed upon.

Mr. Mitchell asked the question of how the hours of operation are set up, as it seems that most wineries close at 5pm. Discussion ensued regarding hours. Mr. Cypher advised that conditions are put in writing by the applicant and the Planning Commission cannot place the conditions. Mr. Sullivan advised his previous comments were overall not to address this specific situation and they could operate within whatever hours the liquor commission allows. Dr. Grobbel advised that he proposes that he and Mr. Psenka do some research and come back with specific hours of operation. Discussion ensued about daily operational hours of current wineries with Dr. Grobbel again advising that next month, they will come back with hours of operation based on their research.

Mr. Simpson asked a question regarding brandies, which are not a cider, and is it the intent to bring in a distillery. Dr. Grobbel advised that is up to the liquor commission. Discussion followed. Dr. Grobbel advised that they are not proposing anything like a distillery.

Chair Korson asked about the Dr. Grobbel's comment of the condition of no events "as of yet." Discussion followed regarding events and that nothing is being proposed at all per Dr. Grobbel. Chair Korson asked if the current acreage of apple farming is enough to operate, Mr. Cypher confirming, yes, this is the case. Discussion followed regarding that if there was a change in hosting events, would that be a new request or an amendment. Mr. Cypher advised it would be a new request and Dr. Grobbel stated that the owner would be willing to make it a condition that there would be no events. Discussion ensued about two properties having the same conditions. Mr. Cypher that it would be very rare for two properties to have the exact same conditions. Mr. Satterwhite stated he is not concerned and there is a risk for being sued over not approving another entity's conditional request in the future. Discussion followed regarding court jurisdiction and Master Plan process and Dr. Grobbel's stated, in his experience with townships he works for, cideries were added to avoid this situation. Dr. Grobbel stated that they would come

with statistics and data on hours of operation at the next meeting. Discussion between Mr. Sullivan and Mr. Cypher regarding the Planning Commission's role. Dr. Grobbel advised that the Planning Commission is here to review the application and that any other type of discussion should be in a different forum in his opinion.

Mr. Cypher asked by a raise of hands, a consensus to hear back from applicant next month for further discussion and review before any public hearing is set. All members raised hands in consensus.

Mr. Cypher thanked Dr. Grobbel for his presentation, discussion and input and that Mr. Psenka's application will be put on the agenda for next month. Mr. Cypher asked that any documents be provided to Mr. Cypher prior to the next meeting from Dr. Grobbel and Mr. Psenka.

3. Public Comment - Tabled at this time.
4. Applicant's Response to Public Comment - Tabled at this time.
5. PC Discussion with staff - Tabled at this time.
6. PC Deliberations/Findings of Fact - Tabled at this time.
7. PC Motions/Action - Tabled at this time.

2021 Calendar of Planning Commission Meeting Dates

Chair Korson asked for discussion on Planning Commission meeting dates over the 2021 calendar year. Chair Korson proposed to schedule a meeting for each month on the first Wednesday and that the Planning Commission can cancel if there is no business. Mr. Cypher advised that the public must be notified if there is a cancellation with Chair Korson stating that at least a week's notice would be given. All members in agreement. Mr. Simpson moved that the 12 meetings of 2021 are on the first Wednesday of the month and may be altered due to lack of business. Seconded by Vice Chair Telgard. All in favor, motion carried.

OLD BUSINESS

Zoning Amendments - Status - Lot Coverage/Character Clause - High Water Setback

Mr. Cypher advised that the Escrow Funds have not been received from Chris Bunbury and that no work has been completed by Mr. Sullivan and himself or will be until the funds have been received.

Master Plan - Status - Update from Planner and ZA

Mr. Cypher reported that he and Mr. Sullivan have been working together and have received input from two board members at this point. Mr. Mitchell reported he does have notes and was not aware he needed to send them. Mr. Cypher reported he provided to the Planning Commission members prior to the meeting Mr. Sullivan's calendar update and issues for discussion. Mr. Cypher reported that it may be better to look at issues of discussion to see if any other areas need to be added. Once that is completed, then Mr. Sullivan and Mr. Cypher can put these draft sections together in Master Plan Chapters and ask for comments at that time. Discussion followed regarding the process for moving forward. Mr. Sullivan reported that years ago having cell phone towers was a big issue and now the consensus from the public is that they want more towers as an example of changes over the years.

Mr. Satterwhite suggests adding the reevaluation of accessory units and parking to general issues for commercial. Mr. Mitchell asking if the Master Plan is to include what the Planning Commission wants to see and do not need any longer with consensus that both are important. Discussion followed about statewide issue of distilleries and marijuana versus having a distillery/growing business with a tasting room. Mr. Cypher stated marijuana is not considered an agricultural product per the state. Mr. Sullivan advised that marijuana is to be grown in a secure location, which is enclosed with security. Discussion followed about distilleries with respect to growing grain. Mr. Mitchell proposed that they may want to have discussion of distilleries with wineries and cideries in Master Plan. Mr. Sullivan advised that distilleries may be something that would be in commercial district versus the agricultural district.

Chair Korson asked question of how specific ideas need to be for the Master Plan with discussion following. Chair Korson's thoughts are that the types of crops would be more of a zoning type of issue than planning. Chair Korson shared thoughts that the Master Plan is a guideline of what we want to see 10 years from now. Mr. Simpson brought up specific land uses and has

thoughts that it would be a conservancy issue. Discussion followed with Mr. Cypher giving some historical context of previous Planning Commission. More discussion ensued on how broad or specific the Planning Commission needs to with respect to the Master Plan. Mr. Sullivan reported that the township could certainly recognize in Master Plan areas of importance and engage at some point with Conservancy or other groups on implementation of areas where township feels there should be land preservation. Mr. Satterwhite shared that acknowledging general views in the Master Plan does not mean it needs acted upon specifically. Mr. Cypher advised giving some flexibility in the verbiage on certain things and to be cautious in whether the language needs to be more broad or specific.

Chair Korson asked if the Master Plan is the reference for the zoning ordinance. Vice Chair Telgard sees the Master Plan as an encompassing view when looking at the ordinance. More discussion ensued. Mr. Cypher advised that a zoning map is to be included in the Master Plan and the Planning Commission will be looking at this closely and to think about this. Mr. Cypher addressed Mr. Mitchell's questions that the Master Plan is not a complete rewrite and it will be helpful to go down the list of 20 issues that Mr. Sullivan provided in order to decide whether to be more specific or broad regarding what is already in the Master Plan. Mr. Cypher is proposing that Mr. Sullivan and himself will put together the individual chapters and input the census data and other updates going forward. Mr. Mitchell asked if members should go through the Master Plan by issue or chapter with Mr. Cypher advising to go by chapter and incorporating the issues along the way.

Mr. Simpson feels there is a community concern for agriculture staying a part of this community and wants to know if there is a line of communication with the conservancy. Mr. Cypher reported that there is available data from the conservancy and that language can put into the Master Plan. Discussion followed regarding developmental rights with how much land is protected with the conservancy having those numbers. Mr. Sullivan reported that the conservancy may even have easements that the Planning Commission is not aware of with the data showing whether there are other areas that may need to be preserved. Mr. Simpson advised that it would be good to know what is already preserved so that the Planning Commission can focus on what land may still need to be preserved.

Chair Korson feels the 20 items on the discussion list provided by Mr. Sullivan need to be reviewed by Mr. Cypher and Mr. Sullivan in order that they find these items in the Master Plan where it has been discussed and put into appropriate verbiage and then compare to current Master Plan to start the discussion at this point at the next meeting. Mr. Cypher and Mr. Sullivan are okay with this timeline. Discussion followed regarding chapters and issues. Mr. Cypher advised they would like the ability to be able to put these items into language that can be discussed.

Chair Korson asked Mr. Sullivan to go over the timeline and how the Planning Commission will move forward. Mr. Sullivan reviewed the timeline and some information will have to wait until census data becomes available and would like the natural resources, the existing land uses, and the commercial services chapters be completed for the next meeting with Mr. Sullivan and Mr. Cypher getting information to the Planning Commission members. After discussions on that language then Mr. Cypher and Mr. Sullivan will start on community goals and issues and future land-use recommendations and implementation strategies. Depending on discussions and significant issues from the Planning Commission then they will allow for public input on the issues before getting too far in approval process.

Mr. Cypher stated the timeline needs updated by Mr. Sullivan and advised that he feels it is important to have an e-packet of information so that public comment can be solicited along the way to help alleviate the need for multiple public comment meetings. Mr. Cypher noted that more people are using the online resources since COVID. Mr. Mitchell advised to have public input by September meeting to get as many people involved as possible.

Mr. Sullivan requested that minutes be gotten to the Planning Commission members early so that they can be a reminder of items that need accomplished and keep the focus on upcoming details. Discussion followed regarding timing of the completed minutes. Mr. Cypher advised that minutes are normally posted within a week but there were extenuating circumstances for January.

OTHER BUSINESS (as required)

No other business presented.

Zoning Administrator Comment: Mr. Cypher thanked everyone for attending tonight and stated there was good discussion and it will be interesting to see what Mr. Psenka and Dr. Grobbel present at the March meeting. Mr. Cypher will make sure that all Planning Commission members will be provided the Michigan Zoning Enabling Act information to reinforce earlier comments.

Planning Commission Comment: Chair Korson asked for comments. No comments were forthcoming. Chair Korson advised that he is asking of how he can make a judgment of denial and approval if the Planning Commission does not weigh situations that could occur based on comments regarding the conditional rezoning application. Discussion followed on the Planning Commission's responsibility. Mr. Sullivan advised that a broader look is necessary for the Planning Commission despite the specifics of a presenter's application. Mr. Mitchell stated that the Planning Commission needs to focus on their position not just on what the applicant wants the focus on.

Public Comment: Mr. Simpson, stated that as a private citizen, not a Planning Commission member, he has a public comment.

Mr. Simpson shared that they have a special land use permit with Aurora Cellars with zero intentions of changing any conditions. Mr. Simpson is advising that with the amount of money invested, he is asking about the time limit that has been put onto the current land-use permit. Mr. Simpson feels this is an ongoing concern and due to significant investment wants to know the specifics of the next step. Mr. Simpson reviewed the special land-use permit Aurora Cellars has to get approved every two years. Discussion followed. Mr. Sullivan voiced a concern that he does not want to have a land owner who has significant investment, then if public does not like, the planning commission refuses to renew, and once in court, the permit will be there forever rather than in perpetuity depending upon a court action. Mr. Cypher advised that the current land-use permit is to be renewed every two years. Mr. Cypher recommends, based on Mr. Sullivan's concerns, that he will talk with legal counsel to get a legal opinion on record. Mr. Mitchell advised that maybe after the initial two-year approval that something of more permanence can be put into effect. Mr. Cypher advised that Planning Commission should start with getting current legal opinion and go from there. Mr. Simpson advised that Aurora Cellars is willing to do whatever necessary to be squared away and have a sustainable land-use permit.

The next meeting is scheduled for Wednesday, March 3, 2021

Adjournment: There being no objection, Chair Korson adjourned the meeting at 9:25 p.m.

Respectfully Submitted

Sandra Dunkin, Recording Secretary

Date Approved: March 3, 2021

December 14, 2020

Property Owners/Address:

Joseph Psenka, d/b/a The Snowbird Inn
473 N. Manitou Tr. (M-22 Highway)
Lake Leelanau, MI 49653
Section 21, T30N, R12W
Leland Township, Leelanau County
Parcel No. 45-09-009-021-026-00

Parcel Size: 18.4 acres (in fee simple ownership)
Zoning: Low Density Agricultural Residential District (AR)

Application for Conditional Rezoning & Winery/Cidery Approval

I. Underlying Zoning - Section 10.4 Low Density Agricultural Residential District (AR)

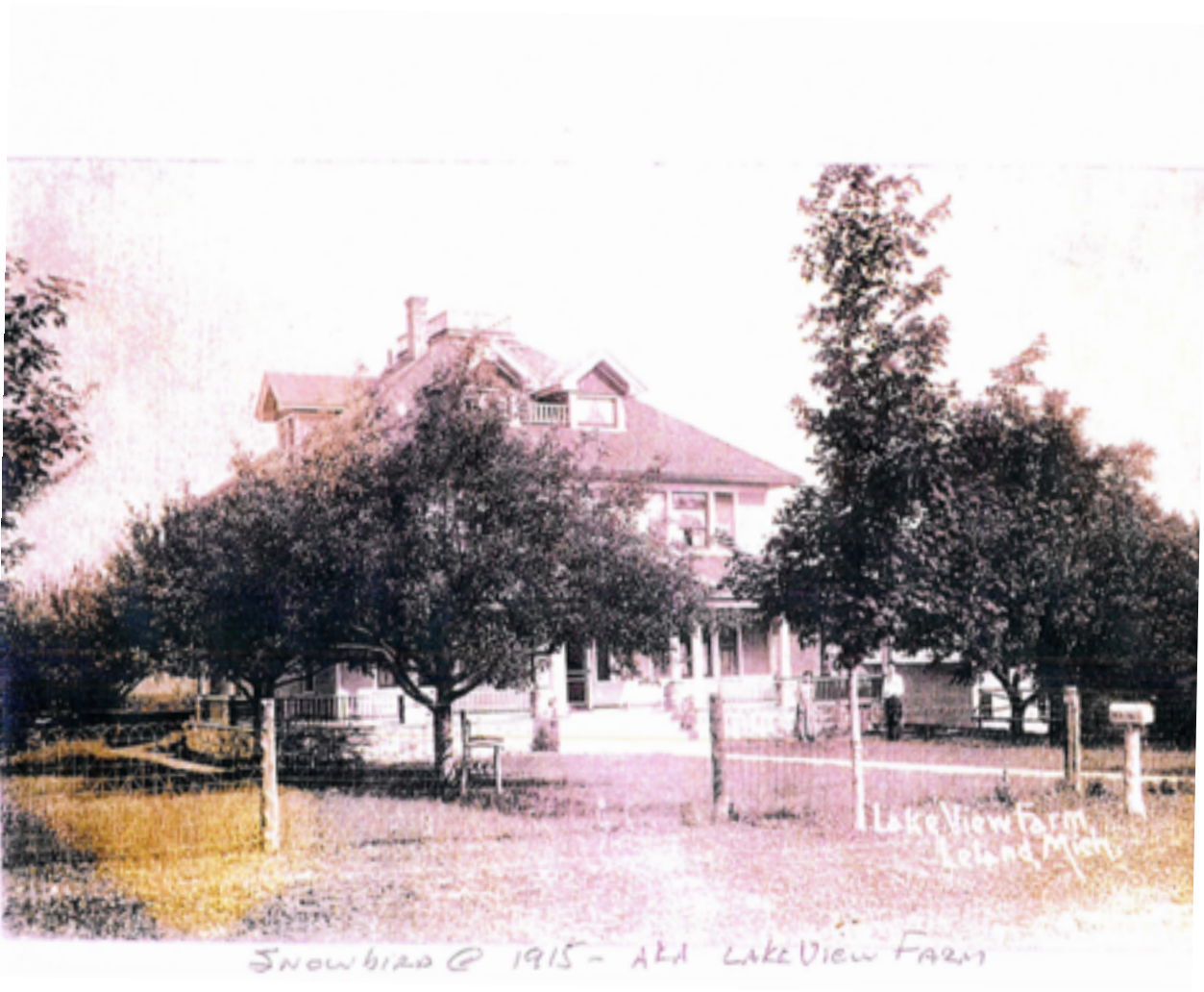
Applicant/landowner Mr. Joseph Psenka owns the above-described property, consisting of five (5) parcels totaling 18.4 acres in fee (Warranty Deed, dated July 13, 2016). Applicant proposes a cidery/winery with a tasting room offering cider (soft and hard), doughnuts, fruit brandies, herbs and related herb products such as herb-infused beverages and/or tinctures. The Applicant planted apple trees in 2010 to support the proposed agricultural use.¹ The subject parcel consists of 18.4 acres, with a minimum lot width of one-thousand three-hundred (1,300) feet.

Agriculture is a use permitted by right in the AR District.² “Agriculture” is defined within the Leland Township Zoning Ordinance as “(a)ny land, buildings, and machinery used in the commercial production of farm products as defined in the Michigan Right to Farm Act, P.A. 93 of 1981, MCLA 286.471 *et seq*; including but not limited to pasturage, floriculture, dairying, horticulture, forestry, and livestock or poultry husbandry, but not including concentrated livestock operations as defined in this Ordinance.”

The subject property is zone AR is currently used for fruit production/agriculture and a bed and breakfast b/d/a “The Snowbird Inn.”

¹ 4.5 acres were planted in 2011 with seven (7) varieties of cider apples. Three (3) acres of cider apples already existed, comprising a total of 7.5 acres planted on-site with apple trees. The Good Harbor Winery currently exists and operates 600 feet to the south and also within the AR District.

² Leland Township Zoning Ordinance, as amended through October 2016, Section 11.01 AR: Low Density Agricultural - Residential District, B. Uses permitted by Right, 1. Agriculture; and Sec. 11.01B.8. “accessory uses and structures customarily incidental to and subordinate to the permitted principle use...”



Snowbird Inn, 473 N. Manitou Tr., Lake Leelanau, Leland Township, Leelanau County.

A. AR District - Site Development Requirements:

1. Minimum Lot Area:

The subject property consists of 18.4 acres., in compliance with Section 11.01, D.1.

2. Minimum Lot Frontage and Lot Width:

Lot frontage along N. Manitou Tr. (M-22 Highway) is more than 1,300 lineal feet in compliance with Sec. 11.1, D.2. requiring a minimum of 250 feet along a major thoroughfare.

3. Yard and Setback Requirements:

- a. Front setback is 25 feet - minimum front setback is 90 feet.
- b. Side setback is 10 feet - minimum side setback is 120 feet.
- c. Rear setback is 25 feet - minimum rear set back is 540 feet.



4. **Maximum Lot Coverage:** Maximum lot coverage allowed is 20 percent.

Lot coverage for all structures on this parcel, including the inn, barn, granary, small house, and detached 2-car garage is 7,572 sq ft /801,504 sq ft (18.4 acres) = 0.94% total lot coverage.

5. **Maximum Building Height:** The maximum building height not to exceed thirty-five (35) feet, except for farm buildings and structures shall be one-hundred (100) feet. Farm buildings over 35 feet in height shall be setback a distance at least the height of the building.

All buildings comply with maximum height requirements.

6. **Other Applicable Provisions:**

- a. **Article 20: Access Control and Private Roads** - no alteration(s) to the existing B&B access to/from N. Manitou Tr. (M-22 Highway) is proposed. Additional site access could be established via a gravel road from Birdsong Rd in the future.

- b. **Article 21: Off-street Parking and Loading** - Thirty-four (34) parking spaces (i.e., at 90 degrees and nine (9) ft width/space) are provided for off-street parking, including two (2) for employees and five (5) for the existing Snowbird Inn B&B sleeping units. The proposed parking spaces are accessible, usable and safe, and will be intentionally unimproved and primarily under gravel and grass cover. Proposed parking meets the requirements of Article 21. *See the attached site plan.*

c. **Article 22: Signs** - No new signs are proposed.

d. **Article 23: Landscaping and Screening** - The site is bounded to the East along M-22 Highway by iconic rows maple trees within the MDOT right-of-way. MDOT is currently removing dead/diseased maple trees within this corridor, which it is believed will also be replaced by MDOT. The site is further screened with an existing arborvitae hedge immediately west of the M-22 Highway corridor. Existing lights are shielded and downward directed, and no on-site light or other source of illumination exceeds or will exceed the property boundary or cause any hazard or impairment to traffic on M-22 Highway or any neighboring property. No flood lights, light poles or similar area lighting are proposed. No lighting is proposed which may be visible outside the subject property, and in no way impair safe movement of traffic on any adjoining property, street or highway.

Existing vegetative screening does not in any way impact vehicle sight distance, and prevents and precludes headlight glare on adjacent properties. All existing native vegetation will be retained, except for diseased or dying species which will be replaced in-kind at a 1:1 ratio. Specifically, the use is not visible or visible only through a filtered view from M-22 Highway (as is typical and customary for agriculture and long-term B& B use of the historic Snowbird Inn). From the outside during the "leaf-on" growing season and during the winter months, existing uses and proposed flutter uses will be marginally visible from M-22 Highway.

All existing vegetation and screening will be retained and maintained. Diseased or dying trees will be replaced to maintain an effective vegetative screen. Replacement trees will consist of Sugar Maple (*Acer Saccharum*), native evergreens such as white cedar/arborvitae (*Thuja occidentalis*) or similar native species and will be not less than six (6) feet in height and will be planted to maintain an effective visual screen. The hedge may be eventually replaced with a native flowering shrub variety.

e. **Article 24: Environmental Standards** - not applicable as no impact to such regulated environmental features is proposed.

7. **Accessory Uses/Structures:** No accessory uses or structures are proposed.

8. **Appropriate permits shall have been obtained from regularity agencies.**

All required appropriate and relevant permits have been or will be obtained from all relevant regulatory agencies, i.e., Benzie-Leelanau District Health Department, Leelanau County Road Commission, U.S. Treasury, Bureau of Alcohol Tobacco & Firearms, Michigan Liquor Control Commission, Michigan Department of Agriculture, Michigan Department of Environment Great Lakes and Energy, and the Michigan Department of Transportation. Copies of all required and relevant site and local permits will be submitted to Leland Township as a condition of approval. It is noted that no new curb cut or access from/to M-22 Highway are proposed.



II. Section 18.25 WINERIES (Amendment 2013-04)

Wineries and Cideries are welcomed by Leland Township as appropriate farm activities. All further references to Wineries in this Section shall include Cideries. It is the intent of this Section to promote local agriculture production by allowing construction of a winery with tasting room and retail sale of winery products in the agricultural district subject to this ordinance. It is also the intent of this section to encourage the growing of wine fruit and production of wine as an integral component of the rural and agricultural ambiance of Leland Township, and to maintain the viability of fruit farming through value-added processing and direct sales of wine and wine-related beverages made from locally grown fruit.

A. Wineries and/or vineyards, with associated on-site tasting rooms in the AC district, are permitted, provided:

1. The winery is licensed by the U.S. Treasury, Bureau of Alcohol Tobacco & Firearms; and the Michigan Liquor Control Commission (MLCC), and is in compliance with the regulations of the Michigan Liquor Control Commission, the Michigan Department of Agriculture, and the Michigan Department of Environmental Quality.

The Applicant will obtain and provide copies of all required state and local permits to Leland Township as condition of approval, as stated above.

2. The winery shall have minimum area planted in fruit maintained pursuant to applicable generally accepted agricultural and management practices (GAAMPs) within Leland Township and within Leelanau County (including the Leland Township acreage) according to the following schedule:

Annual production in cases

3 acres (Leland Township planted acreage)

3 acres (Leelanau County planted acreage)

5,000 to 9,999 cases/year.



The site is planted with a total of 7.5 acres of producing apple orchard in Leland Township. The proposed use is thereby allowed to produce up to 9,999 cases of cider product annually.

3. The above-ground portion of any individual building shall not be greater than 20,000 square feet.

No new buildings are proposed. Above-ground portions of existing on-site buildings are summarized as follows and are in compliance with this standard:

Barn:	3,340 sq ft
Inn:	2,592 sq ft
Cottage:	680 sq ft
2-car garage:	440 sq ft
Granary:	<u>520 sq ft</u>
Total	7,572 sq ft

4. All winery buildings shall be set back at least 50 feet from any lot line. If the winery building is open to the public, that building shall be set back at least 100 feet from any lot line. To encourage the use of existing buildings, the setback requirements may be reduced to the standards of the applicable district, subject to site plan review.

All cidery buildings are existing and proposed cidery buildings, and those open to the public, comply with the above required setbacks.

5. Retail sales and food service are clearly accessory to production of wine.

Retail sales and limited food service, i.e., doughnuts, will be accessory to cider and/or herb-infused beverages and/or tinctures.

6. Standards for Wineries:

a. Parking shall be provided, per Article 21.

Thirty-four (34) parking spaces (i.e., at 90 degrees and nine (9) ft width/space) are provided for off-street parking, including two (2) for employees and five (5) for the existing Snowbird Inn B&B sleeping units. The proposed parking spaces for cidery/winery use are accessible, usable and safe, and will be intentionally unimproved and primarily under gravel and grass cover. Proposed parking meets the requirements of Article 21. *See the attached site plan.*

b. All lighting shall meet the lighting standards as outlined in Section 24.07 of the Leland Township Zoning Ordinance.

No new lighting is proposed.

c. All signs shall meet the Sign Standards as outlined in Article 22 of the Leland Township Zoning Ordinance.

No new signage is proposed at this time.

B. Approval Process for Wineries: Site Plan Review is required, except a Special Land Use (SLU) approval is required if the total land area covered by buildings and structures used for wine processing, storage, sales, food service and special events exceeds thirty thousand (30,000) square feet. A SLU approval can cover all special events for up to two (2) years, provided the conditions of the special event(s) and associated activities do not exceed that which was approved, and the Zoning Administrator shall have the authority to grant one two- year extension, after which the applicant must reapply for a Planning Commission Site Plan approval to conduct such special events.

Total area covered by buildings and structures proposed for cidery and accessory cider use(s) is 7,572 sq ft, thereby SLU permit application and review is not required.

III. Conditional Rezoning

Section 125.3405 of the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, allows for the use and development of land as condition to rezoning. Specifically, PA 110 states that:

- 1) A landowner may in writing voluntarily offer and the local unit of government may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.**

Applicant requests the conditional rezoning of the subject property in the AR District for cidery/ winery and its associated ancillary uses.

- 2) In approving the conditions the local unit of government may establish a time period during which the conditions apply to the land.**

Applicant seeks that this conditional rezoning run in perpetuity or for the period of the proposed cidery/winery use, whichever is shorter.

- 3) The local government shall not add to or alter the conditions approved under subsection (1) during the time period.**

N/A

- 4) The time period specified may be extended upon the application of the landowner and approval of the local unit of government.**

N/A

- 5) A local unit of government shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under subsection (1) shall not otherwise affect a landowner's rights under this act, the ordinances of the local unit of government, or any other laws of this state.**

Applicant offers to allow the property conditional rezoning to revert to AR upon the cessation or abandonment of the cidery/winery and associated uses.

C) Additional Considerations.

1. Nuisance Prevention

No public address (PA) system or loud music, fireworks, shouting or loud vocalization or other potential nuisance noise shall be allowed. Applicant/landowner will serve as on-site manager, resides on the premises and will enforce all conditions of approval and will prevent of any potential nuisance. No nuisance noise, smoke, dust or lights will be allowed to emanate from the site. Thereby, no unreasonable interference with the comfortable use and enjoyment of any other vicinity or adjoining properties and their uses will result or be allowed to occur or exist. No fumes, dust or vibration are anticipated from the proposed use.

2. Garbage storage and disposal and recycling bins

Garbage, disposal, composting and recycling bins and collection/disposal operations will be designed and maintained to ensure no vermin or rodent access and facilities are screened from view from the road or abutting properties when not in use.

Name(s) and address(es) of person(s) responsible for the preparation of this application.

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231-499-7165



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Public Notice

Long Lake Township, Grand Traverse County Michigan

Notice of Intent to Conduct Master Planning

In accordance with the requirements of the Michigan Planning Enabling Act, PA 33 of 2008, as amended, this letter serves as notice that Long Lake Township, Grand Traverse County, Michigan, is initiating the process of updating its Master Plan. The Township asks for your cooperation and assistance in this plan update by providing any comments regarding the Plan at any time before a draft is completed.

Later in the process, Long Lake Township will be sending a draft copy of the Plan for your review and comment, as required by the Act. We would appreciate your comments regarding the Plan's content and how you feel it may affect planning efforts in your community. Unless you specifically request that we do otherwise, we intend to distribute the draft electronically.

The Long Lake Township Planning Commission thanks you in advance for your cooperation and assistance.

Please direct any correspondence or questions to:

Long Lake Township Planning Commission
8870 North Long Lake Road
Traverse City, MI 49685
231-946-2249
planner@longlaketownship.com

Thank you,

Rick Craves, Planning Commission Chair